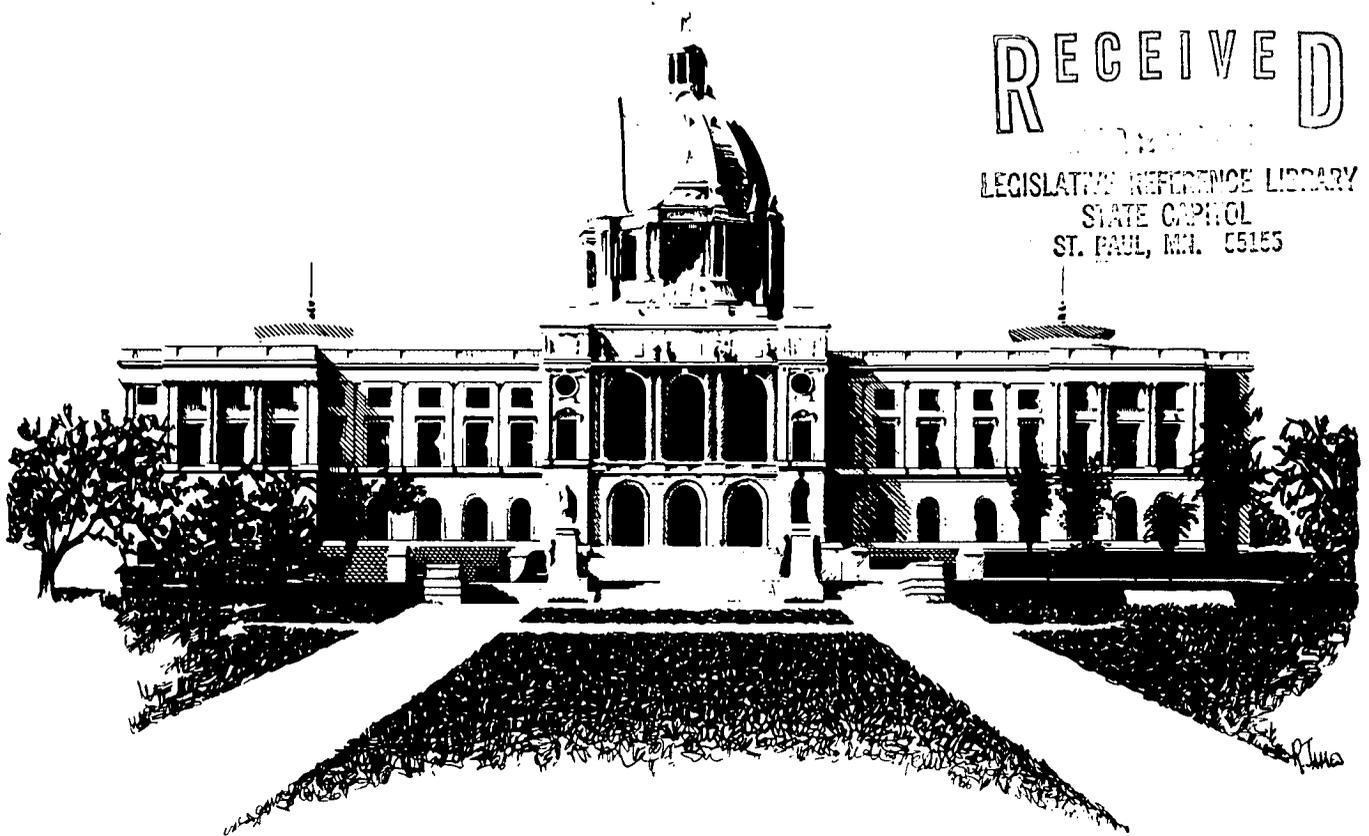


84 Mar. 26

STATE REGISTER

STATE OF MINNESOTA



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VOLUME 8, NUMBER 39

March 26, 1984

Pages 2137-2180



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 8			
40	Monday Mar 19	Monday Mar 26	Monday Apr 2
41	Monday Mar 26	Monday Apr 2	Monday Apr 9
42	Monday Apr 2	Monday Apr 9	Monday Apr 16
43	Monday Apr 9	Monday Apr 16	Monday Apr 23

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION. Such notices are published in the OFFICIAL NOTICES section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in spring of 1984. In the MCAR AMENDMENT AND ADDITIONS listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR AMENDMENTS AND ADDITIONS list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issue 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the *MCAR 1982 Reprint*.

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MINNESOTA RULES

Office of the Revisor of Statutes State Register and Public Documents Division

Announcement of New Minnesota Rules Format

Beginning with the March 19 issue of the *State Register*, proposed rules published in the *State Register* will be drafted in a new format and will use a new numbering system. This format and numbering system change was made by the Revisor of Statutes as part of the Revisor's recompilation of state administrative rules. This recompilation has been published and is known as *Minnesota Rules*.

The MCAR format will still appear when agencies publish changes to proposed rules that were published in the MCAR format. The changes will follow the MCAR format so that readers can easily compare the proposed and adopted rules. Also, rules that began at the proposal stage in the MCAR format before the changeover will still appear in the MCAR format in the *State Register*. After the rules have been adopted, the revisor will recompile them in the new format for inclusion in *Minnesota Rules*.

Copies of the *Minnesota Rules Drafting Manual*, which explains the new format, can be purchased from the State Register and Public Documents Division of the Department of Administration. The cost is \$11.00 plus 6% sales tax (Minnesota residents only) and \$1.50 handling charge (handling charge applicable to mail orders only). Prepayment is required.

Concordance tables for converting MCAR numbers into MR numbers and vice versa is also available. It is included in Volume 6 of the new set of *Minnesota Rules*, 1983. The cost of Volume 6 of *Minnesota Rules* is \$17.00 plus sales tax and handling charge (\$1.50 for mail orders), and is available from the State Register and Public Documents. For questions about specific MCAR-MR conversions, call Barbara Moehrle, Revisor's Office, at 297-2958.

EXECUTIVE ORDERS

Executive Order No. 84-6

Ratifying the City Council of the City of Bloomington as Agent for Public Hearing Required by Section 103(k) of the Internal Revenue Code with Respect to the Issuance by the City of Bloomington of Its \$7,000,000 Commercial Development Revenue Bonds (Marriott Corporation Project) and Approving the Issuance of the Bonds in Accordance with the Terms of Resolutions Adopted by the City of Bloomington and the Metropolitan Airports Commission

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, Section 103(k) of the Internal Revenue Code of 1954, as amended, (the "Code") requires that all industrial revenue bonds issued after December 31, 1982, satisfy certain public approval requirements prior to issuance; and

WHEREAS, the City Council of the City of Bloomington (the "City") conducted a public hearing with respect to the issuance of its \$7,000,000 Commercial Development Revenue Bonds (Marriott Corporation Project) (the "Bonds"), both in its capacity as the issuer of the Bonds and as the agent of the Metropolitan Airports Commission (the "Commission") which is acting as the entity giving "Host" approval of the Bond issue, as that term is defined in the regulations promulgated under Section 103(k) of the Code.

WHEREAS, the proceeds of the Bonds are to be used to assist in financing the construction, installation, and equipping of an approximately 75,000 square foot airline food catering facility to be located at 7300 34th Avenue South, Minneapolis-St. Paul International Airport in Hennepin County and initially operated by the Marriott Corporation; and

WHEREAS, Bond Counsel has advised the City of Bloomington that to insure compliance with the public hearing requirement implemented by Section 103(k) of the Code, the State of Minnesota should, prior to the issuance of the Bonds, (a) ratify the City as its authorized hearing agent for the public hearing held on December 5, 1983, with respect to the Bonds to be issued by the City and (b) approve the issuance by the City of the Bonds; and

WHEREAS, the action taken by the State of Minnesota pursuant to this Order is consistent with the law of the State of Minnesota and within the authority vested in the Governor of the State of Minnesota and best serves the interests of the State of Minnesota.

NOW, THEREFORE, I order:

1. The City is hereby ratified as the hearing agent of the State of Minnesota with respect only to the public hearing heretofore conducted by the City on December 5, 1983, with respect to the Bonds and said public hearing as hereby ratified and shall be deemed to have been taken for the State of Minnesota for the purposes of conducting the public hearing required under Section 103(k) of the Code.

2. Issuance of the Bonds by the City upon the terms and conditions set forth in the City Resolution entitled "RESOLUTION RECITING A PROPOSAL FOR A COMMERCIAL FACILITIES DEVELOPMENT PROJECT GIVING PRELIMINARY APPROVAL TO THE PROJECT PURSUANT TO THE MINNESOTA MUNICIPAL INDUSTRIAL DEVELOPMENT ACT, AUTHORIZING THE SUBMISSION OF AN APPLICATION FOR APPROVAL OF SAID PROJECT TO THE ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY OF THE STATE OF MINNESOTA AND AUTHORIZING THE

PREPARATION OF THE NECESSARY DOCUMENTS AND MATERIALS IN CONNECTION WITH SAID PROJECT'' adopted Monday, December 5, 1983, and upon the terms and conditions set forth in the Commission Resolution adopted December 19, 1983, and entitled ''RESOLUTION RECITING A PROPOSAL FOR A COMMERCIAL FACILITIES DEVELOPMENT PROJECT, RATIFYING THE CITY OF BLOOMINGTON AS HEARING AGENT FOR A PUBLIC HEARING REQUIRED BY SECTION 103(k) OF THE INTERNAL REVENUE CODE WITH RESPECT TO THE ISSUANCE BY THE CITY OF ITS \$7,000,000 COMMERCIAL DEVELOPMENT REVENUE BONDS (MARRIOTT CORPORATION PROJECT) AND APPROVING THE ISSUANCE OF THE BONDS IN ACCORDANCE WITH THE TERMS OF A RESOLUTION NO. 83-137 ADOPTED BY THE CITY OF BLOOMINGTON ON MONDAY, DECEMBER 5, 1983'' is hereby approved by the State of Minnesota for the purpose only of satisfying the public approval requirements of Section 103(k) of the Code and the regulations thereunder and for no other purpose.

3. This Order and the approval herein granted shall not be construed as imposing any liability upon the Governor or the State of Minnesota, whether or not this Order satisfies the public approval requirement of Section 103(k) of the Code and the regulations promulgated thereunder.

Pursuant to Minnesota Statutes 1982, Section 4.035, this Order shall be effective 15 days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1982, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 7th day of March, 1984.



ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Agriculture Agronomy Services Division

Extension of Temporary Rules Governing Fees for Agricultural Seed Registration and Testing (3 MCAR § 1.0172)

Notice of Continuation of Temporary Rules

Notice is hereby given that 3 MCAR § 1.0172 (temporary), which governs fees for agricultural seed registration and testing, effective September 30, 1983, and published in the *State Register* as adopted at Volume 8, Number 19, page 1078, are being continued in effect for an additional 180 days. This continuation is in accordance with Chapter 562, 1982 Laws of Minnesota. The new expiration date will be September 24, 1984 or until they are superseded by permanent rules.

Department of Economic Security

Extension of Temporary Rule Governing the Definition of "Economically Disadvantaged" in Minnesota Statutes, Section 268.61, Subdivision 4

Notice of Continuation of Temporary Rule

Notice is hereby given that the above-entitled temporary rule, which was published in the *State Register* on August 29, 1983, page 325, is being continued for 180 days according to Minnesota Statutes, section 268.021.

The promulgation of this temporary rule is authorized by Minnesota Statutes, section 268.61, Subdivision 4, which requires the Department of Economic Security to establish by rule the criteria for the term "economically disadvantaged."

The Administrative Procedure Act, Minnesota Statutes, section 14.35, authorizes extension of temporary rules for an additional period of up to 180 days. Continuation goes into effect when Notice of Continuation of Temporary Rule is mailed to all persons registered with the Department of Economic Security to receive notice of any rulemaking proceedings. This notice was mailed on March 26, 1984.

This means that the above-entitled temporary rules will be in effect until September 21, 1984, unless they are superseded by permanent rules or legislative action.

Department of Economic Security

Extension of Temporary Rules Governing the Procedures to Implement the Work Requirements of Minnesota Statutes, Section 256D.111, 256D.112, 268.80 and 268.81

Notice of Continuation of Temporary Rule

Notice is hereby given that the above-cited rules which were effective on October 7, 1983, and published in the *State Register* on August 29, 1983, page 322, with modifications published on November 14, 1983, page 1093, are continued in effect for an additional 180 days according to Minnesota Statutes, section 14.35.

This means that the above-entitled temporary rules will be in effect until October 10, 1984, unless they are superseded by permanent rules or legislative action.

Department of Energy and Economic Development Financial Management Division

Extension of Temporary Rules Governing Administration of the District Heating Grant Program

Notice of Continuation of Temporary Rules

Notice is hereby given that 6 MCAR §§ 2.4040-2.4048 (temporary), which governs the administration of the district heating grant program, are being continued in effect for an additional 180 days. This continuation is in accordance with Laws of Minnesota 1982, Chapter 562. The temporary rules were effective October 11, 1983 and published in the *State Register* as adopted at Volume 8, Number 22, November 28, 1983, page 1262. The new expiration date will be October 4, 1984, or until they are superseded by permanent rules.

Department of Labor and Industry Occupational Safety and Health Division

Notice of Withdrawal of Temporary Emergency Standard Governing Occupational Exposure to Asbestos

Notice is hereby given that the State of Minnesota, Department of Labor and Industry, Occupational Safety and Health Division, withdraws its Emergency Temporary Standard on Occupational Exposure to Asbestos which was adopted and published in the *State Register*, November 28, 1983, page 1260, pursuant to Minnesota Statutes § 182.655, subd. 11 (1982). The withdrawal is effective immediately.

The withdrawal does not affect the continuing applicability of the general industry standard on asbestos at 29 C.F.R. § 1910.1001.

Questions should be directed to Ivan Russell, Director, Minnesota Occupational Safety and Health Division, 444 Lafayette Road, St. Paul, Minnesota 55101; telephone: (612) 296-2116.

March 6, 1984

Steve Keefe
Commissioner of Labor and Industry

Board of Peace Officer Standards and Training

Adopted Rule Governing Investigation and Resolution of Misconduct Allegations

The rule proposed and published at *State Register*, Volume 8, Number 23, pages 1337-1338, December 5, 1983 (8 S.R. 1337) is adopted with the following modifications:

Rule as Adopted

4 MCAR § 13.040 Investigation and resolution of misconduct allegations.

F. Documentation of complaints. The chief law enforcement officer or his designee or designees shall maintain data concerning ~~all allegations~~ of misconduct by licensees employed or appointed by the agency according to the provisions of Minnesota Statutes, sections 15.17 and 15.171. The board may request copies of this data. The chief law enforcement officer shall supply the data and an affidavit of compliance with C.2. to the board within five days of the request, excluding Saturdays, Sundays, and legal holidays. If compliance is not possible within that time, the chief law enforcement officer shall inform the board and shall have an additional five days to comply with the request, excluding Saturdays, Sundays, and legal holidays.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

Department of Transportation

Adoption, Amendment and Repeal of Rules Governing State-Aid Operations Under Minnesota Statutes Chapters 161 and 162 (14 MCAR § 1.5032)

The rules proposed and published at *State Register*, Volume 8, Number 27, pages 1603 through 1624, on January 2, 1984 (8 S.R. 1603) are adopted with the following modifications:

Rule as Adopted

14 MCAR § 1.5032 State-aid operations under Minnesota Statutes, chapters 161 and 162.

A. Definitions. For purposes of this rule the following terms have the meanings given them:

1. "Commissioner" means the commissioner of transportation.
2. "State-aid engineer" means a registered engineer employed as the state-aid engineer of the Minnesota Department of Transportation.
3. "District engineer" means a district engineer of the Minnesota Department of Transportation or a registered engineer employed as his state-aid assistant.
4. "District state-aid engineer" means a registered engineer employed as the district state-aid engineer.
5. "County highway engineer" means a registered engineer employed as the county highway engineer or the director of public works-county highway engineer of each county.
6. "City engineer" means a registered engineer employed as the city engineer or the director of public works-city engineer of each urban municipality.
7. "Needs report" means a report of the estimated construction cost required to improve a state-aid system to standards adequate for future traffic on a uniform basis.
8. "County-municipal account" means a separate record of that portion of the county state-aid highway funds allocated for expenditure solely within cities having less than 5,000 population.
9. "Urban municipality" means a city having 5,000 or more population, determined in accordance with the provisions of law.
10. "Local highway or street department" means the highway or appropriate department of each county and each urban municipality.
11. "Township allotment" means the county apportionment of county state-aid highway funds for use in the construction of township roads.
12. "Advance encumbrance" means the authorized expenditure of local funds, in lieu of state-aid funds, by a county or municipality for use on an approved state-aid project. By agreement with the commissioner, the local funds will be repaid to the county or urban municipality from future county or municipal state-aid allotments or from future county or municipal turnback funds.
13. "Screening board" means the county or municipal board appointed in accordance with law and authorized to recommend to the commissioner the mileage and money needs for each of their state-aid systems.
14. "Disaster account" means an account provided by law for use in aiding a county or urban municipality that has suffered a serious damage to its county state-aid highway system or municipal state-aid street system from fire, flood, tornado, or other uncontrollable forces of such proportion that the cost of repairs to that county state-aid highway system or municipal state-aid street system is beyond the normal resources of the county or urban municipality.
15. "Trunk highway turnback" means a former trunk highway or portion of it that has reverted to a county or municipality in accordance with law.
16. "Turnback account" means the account provided by law for payment to the county for the restoration of or to the urban municipality for the reconstruction and improvement of former trunk highways that have reverted to the county or municipality and have become part of the state-aid system.
17. "Disaster board" means a board, appointed in accordance with law, to investigate and report its findings and recommendations to the commissioner as to a county's or urban municipality's claim of a disaster or unforeseen event affecting its county state-aid highway or municipal state-aid street system and resulting in a financial hardship.
18. "Local road research board" means a board appointed in accordance with K. to recommend specific research projects to the commissioner.

19. "Town bridge need" means the estimated construction cost required to improve or replace a town bridge to conform to standards adequate for future traffic on a uniform basis.

20. "Town bridge account" means the apportionment of county state-aid turnback funds for use in the construction or reconstruction of bridges on township roads.

21. "Town road account" means the apportionment of county state-aid turnback funds for use in the construction or reconstruction of township roads.

22. "Functional classification plan" means a plan by which highways and streets are grouped into classes according to the character of service they are intended to provide.

23. "Variance committee" means a committee appointed in accordance with L.4. to investigate and make recommendations to the commissioner on requests for variances from this rule.

24. "Agency agreement" means an agreement between a city, county, or other governmental unit and the commissioner by which the city, county, or other governmental unit may appoint the commissioner as the agent, with respect to federally funded projects, to accept and receive federal funds made available for projects and to let contracts in accordance with law for the construction or improvement of local streets or roads or other construction projects.

25. "Technical assistance agreement" means an agreement between a city, county, or other governmental unit and the commissioner by which the city, county, or other governmental unit requests the state to furnish technical and engineering assistance pursuant to law.

26. "City of the first class" has the meaning given it in Minnesota Statutes, section 410.01.

27. "Construction and reconstruction of town roads" means the construction of a new town road or the reconstruction of a town road or any part of a town road upon which new or improved traffic service will be provided. At a minimum, reconstruction consists of the resurfacing of a gravel roadway with aggregate at the rate of 700 tons per mile or the application of an aggregate seal to a bituminous surfaced roadway.

28. "Town road mileage" means mileage on a road that is maintained by a town or any other local unit of government acting as a town and open to the traveling public a minimum of eight months of the year as certified by the county highway engineer.

B. Organization and powers of local highway departments. Each county and each urban municipality shall establish and maintain a highway or street department. These departments must be adequately organized, staffed, and equipped to administer for the county or urban municipality matters relating to the operations of the state-aid program and to exercise all functions incidental thereto, in accordance with law. Preparation of plans and specifications and supervision of construction and maintenance must be under the control and direction of a professional engineer, registered in the state of Minnesota and employed or retained for that purpose.

C. Selection and designation of state-aid systems. The state-aid highways and streets designated to form the basis for a long-range improvement program must be so selected as to form an integrated network of highways and streets in accordance with the following provisions:

1. Final selection of routes to be included in the respective county state-aid and municipal state-aid systems are subject to the approval of the commissioner. These routes may be established on new locations where no existing roadway exists or may be located upon or over an established roadway or specified portion of a roadway.

The highway and street systems to be selected and designated in accordance with law are:

a. a county state-aid highway system not exceeding 30,000 miles in extent, excluding trunk highway turnback mileage;

b. a municipal state-aid street system not exceeding 2,500 miles in extent within urban municipalities, excluding trunk highway turnback mileage.

For an undivided, one-way street with a minimum width of 28 feet and with no parking lane or with a maximum width of 36 feet with parking on one side, the chargeable mileage allowed for municipal state-aid street mileage purposes is one-half of the length of the one-way street.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

2. A state-aid route must be selected on the basis of the following criteria:

a. a county state-aid highway which:

(1) is projected to carry a relatively heavier traffic volume or is functionally classified as collector or arterial as identified on the county's functional plans as approved by the county board;

(2) connects towns, communities, shipping points, and markets within a county or in adjacent counties; or provides access to rural churches, schools, community meeting halls, industrial areas, state institutions, and recreational areas; or serves as a principal rural mail route and school bus route;

(3) occurs at reasonable intervals consistent with the density of population; and

(4) provides an integrated and coordinated highway system affording, within practical limits, a state-aid highway network consistent with projected traffic demands; or

b. a municipal state-aid street which:

(1) is projected to carry a relatively heavier traffic volume or is functionally classified as collector or arterial as identified on the urban municipality's functional plan as approved by the urban municipality's governing body;

(2) connects the points of major traffic interest within an urban municipality; and

(3) provides an integrated street system affording, within practical limits, a state-aid street network consistent with projected traffic demands.

3. With regard to route designations, county state-aid highways and municipal state-aid streets must be selected by the respective boards of county commissioners, or the respective governing bodies of urban municipalities. The highway or street selections must be reviewed by the district state-aid engineer of that area and his recommendation must be filed with the commissioner. Upon preliminary approval of the commissioner, the respective boards will establish the route by designation. The commissioner after receipt of each resolution shall approve all or such part of the highway or street designations contained in the resolution, as complies with the criteria set out in this rule. The commissioner shall certify to the respective boards of county commissioners or governing bodies of urban municipalities the approved portion of the highway or street designation. Highways or streets so approved shall become a part of the county state-aid highway system or the municipal state-aid street system, subject to additions or revisions as may be, from time to time, requested and approved.

a. With regard to turnback designations, prior to release of a former trunk highway to the jurisdiction of a county or urban municipality, the commissioner shall notify the board of county commissioners or the governing body of the urban municipality through its county highway or city engineer, which portions of the turnback are eligible for designation as part of its state-aid system and which portions are eligible for restoration or reconstruction and improvement with turnback funds. Upon a request for the designation of eligible portions of the turnback from the board of county commissioners or the governing body of the urban municipality, the commissioner shall issue the official order for designation and notify the county or municipal screening board of this action.

D. Money needs and apportionment determination.

1. To provide data to implement the formulas for state-aid apportionment, each county highway engineer and city engineer shall prepare cost estimates of construction required to improve the county state-aid or municipal state-aid system to approved standards.

2. In addition to the direct construction or maintenance costs permitted under law, the cost of the following incidental items will be considered as eligible for inclusion in the total estimate of needs:

a. county state-aid highways:

(1) right-of-way on new construction;

(2) automatic traffic control signals;

(3) lighting of intersections and bridges within approved standards; and

(4) proportionate share of drainage costs within municipalities, to reflect the responsibility of the state-aid highway;

b. municipal state-aid streets:

(1) right-of-way;

(2) automatic traffic control signals;

(3) lighting of intersections and bridges within approved standards; and

(4) proportionate share of all drainage costs, to reflect the responsibility of the state-aid street;

3. The respective screening boards shall consider reports from the commissioner, consisting of the county state-aid allotments to townships, or the municipal state-aid payments for construction or right-of-way on state trunk highways or county state-aid highways, covering allotments or payments made during the preceding year; and shall recommend to the commissioner the amount of deductions to be made in the money needs for each county or municipality, in order to equalize its status with other counties or municipalities not making similar expenditures.

4. A detailed report of the state-aid mileage and cost estimates must be tabulated and referred to the respective screening boards appointed pursuant to law. These boards shall investigate and review mileage, cost estimates, and the reports of those expenditures listed under deductible items, and shall, on or before November 1 of each year, submit their findings and recommendations in writing to the commissioner as to the mileage and adjusted money needs for each of the governmental subdivisions represented by the respective boards.

5. The commissioner shall determine the apportionment percentage due each county and urban municipality in accordance with the formulas established by law.

E. State-aid apportionments. State-aid apportionments must be made from the county state-aid highway fund and the municipal state-aid street fund as provided by law. Apportionments to the respective counties and urban municipalities must be released in accordance with F.

1. Not later than January 25 of each year, the commissioner shall certify the annual apportionment to each respective county or urban municipality.

a. For maintenance apportionments and as soon as the annual county and urban municipal state-aid allotments have been determined, the commissioner shall apportion and set aside the following amounts:

(1) 40 percent of the regular county state-aid allotment for the general maintenance of county state-aid highways;

(2) 40 percent of the county-municipal account allotment for the maintenance of the county-state-aid highways within municipalities of less than 5,000 population;

(3) for revisions of county maintenance apportionments, the commissioner may, upon recommendation of the screening board or upon receipt of a resolution from a county board and for good cause shown, increase or decrease the proportion to be used for maintenance under either (1) or (2); and

(4) for the urban account, 25 percent of the total allocation, or \$1,500 per mile of improved municipal state-aid streets, whichever is less, as the minimum allotment for the general maintenance of the approved state-aid system. The commissioner may modify the minimum payment to the extent necessary to accommodate the screening board resolutions pertaining to trunk highway turnback maintenance allowances. Those municipalities desiring to receive an amount greater than the established minimum shall file a request not later than December 15 preceding the annual allocation and shall agree to file a detailed annual maintenance expenditure report at the end of the year.

b. The construction portion of the annual allocation to each county and urban municipality must be credited to the respective accounts and retained by the commissioner for payment on approved projects.

c. The town bridge account portion of the annual allocation of the county state-aid turnback account must be credited to each respective county and retained by the commissioner for payment on approved projects.

d. The town road account portion of the annual allocation of the county state-aid turnback account must be set aside and credited to each respective county.

F. State-aid payments. Annual apportionments to the respective counties and urban municipalities must be released in the following manner:

1. At the earliest practical date, after the allotments have been determined, the commissioner shall release the following amounts to the respective counties and urban municipalities:

a. One hundred percent of the town road account.

b. Maintenance funds:

(1) Fifty percent of the maintenance allotment from the regular account of each county.

(2) Fifty percent of the maintenance allotment from the municipal account of each county that has filed a request

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for advance payments prior to the annual apportionment in January of each year. The request must include the estimate of the maintenance expenditures anticipated within the municipal account during the calendar year.

(3) Fifty percent of the maintenance allotment to each urban municipality.

(4) On or about July 1 of each year, the commissioner shall release an additional advance from the respective maintenance accounts listed above, in an amount not to exceed 40 percent of the total maintenance allocations.

(5) The remaining maintenance funds will be released to the counties and urban municipalities upon receipt of their report of actual maintenance expenditures except that those urban municipalities that receive the minimum maintenance allocation will receive their remaining maintenance money on or about December 15.

(6) An unobligated balance remaining in the state-aid maintenance account to the credit of a county or urban municipality, after final settlement has been made for the annual maintenance expenditures, must be automatically transferred to the construction account of that county or municipality.

c. Construction funds:

(1) State-aid contracts. The commissioner, upon receipt of an abstract of bids and a certification as to the execution of a contract and bond therein, shall promptly release from the funds available to the county or urban municipality up to 95 percent of the state-aid portion of that contract. The commissioner, unless otherwise requested, shall retain the remaining percentage of the state-aid share of the contract, provided funds are available therefor, until the final cost is determined and the project accepted by the district engineer.

(2) Federal-aid contracts. The commissioner, under authority of an agency agreement with the governing body of a county, urban municipality, or other governmental unit and acting as its agent in federal-aid operations, will release from state-aid funds available therefor, 95 percent of the county's or urban municipality's share of the entire contract obligation for immediate transfer to the agency account, to be used in paying the county's or urban municipality's share of the partial estimates and for advancing the federal share of those estimate payments. The commissioner shall retain the remaining percentage of the contract cost of the project until the final cost is determined and the project accepted by the district engineer. Where other than state-aid funds are to be used for depositing in the agency account, 100 percent of the local governmental share of the contract amounts must be deposited in the agency account prior to award of the contract.

(3) Force account agreements. Partial estimates will be accepted on all projects approved for construction by local forces using the agreed unit prices for determining the value of the completed work. The commissioner shall promptly release from funds available therefor 95 percent of the cost of current accomplishments as reported by the partial estimates. Upon request of the county or urban municipality, the commissioner will set aside and retain its state-aid funds in an amount equal to the agreed total cost of the entire project to ensure final settlement of the completed construction when the final estimate is submitted and upon acceptance by the district engineer.

(4) Payment limitations. Approval of state-aid projects by the commissioner does not imply that state-aid payments will be made in excess of the construction funds available from current state-aid allotments. A county or urban municipality having depleted its currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless a request for advance encumbrance has been approved or a project is completed in a subsequent year and funds are available.

d. Engineering costs:

(1) Requests for reimbursement of preliminary engineering costs must be submitted with the report of state-aid contract or with the initial partial estimate on an approved force account project. The commissioner, upon receipt of this request supplemented by documentation as may be requested by the commissioner, shall authorize the reimbursement for actual engineering costs, not to exceed ten percent of the total estimated contract or agreement amount.

(2) Requests for payment of construction engineering costs must be submitted along with the final estimate report. The commissioner, upon receipt of this request, shall authorize a construction engineering payment which will either be limited to eight percent of the eligible construction costs where there are no unusual traffic or construction problems, or which may at the commissioner's discretion be paid in the maximum amount of 12 percent of the construction costs on complex projects involving difficult construction features or the continuous movement of dense traffic.

e. State-aid payments for right-of-way costs on approved projects must be limited to 95 percent of the approved claim until the acquisition of right-of-way required for the project is actually completed and the final costs established.

f. Advance encumbrances.

(1) With regard to an advance from county funds, when the commissioner approves a request from the county board for the construction of an approved county state-aid project, which requires county state-aid highway funds in excess of

the available allotment, and these excess costs will be initially paid for from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay those locally financed expenditures out of subsequent construction or turnback apportionments to the county's state-aid accounts in accordance with the terms and conditions specified in the approved request.

(2) With regard to an advance of county regular account funds to a county municipal account fund, when the commissioner approves a request from the county board for the advance of county regular account funds for use on a municipal section of an approved county state-aid highway project, and when repayments to the county regular account fund are to be made from subsequent accruals to the county municipal account fund, the repayments will be made by the commissioner, to the extent authorized by law, in the form of transfers from the county municipal account fund to the county regular account fund, in the amounts and at the time specified in the authorization.

(3) With regard to an advance from urban municipal funds, when the commissioner approves a request from the governing body of an eligible urban municipality for the construction of an approved municipal state-aid street project, which requires funds in excess of the available allotment and these excess costs will be initially paid from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay these locally financed expenditures out of subsequent construction or turnback apportionments to the urban municipal account of that municipality in accordance with the terms and conditions specified in the approved request.

(4) With regard to an advance from a town bridge account, when the commissioner approves a request from the governing body of a county for the replacement or reconstruction of a town bridge which will require funds in excess of the county's available town bridge account and these excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the town bridge account in accordance with the terms and conditions specified in the approved request. The total of these advances to be reimbursed from the town bridge account must not exceed 40 percent of the last town bridge apportionment. Advances must be repaid in accordance with the terms of the approved request from money accruing to the respective town bridge accounts.

g. With regard to a county or municipal bond account, a county or urban municipality that resolves to issue bonds payable from the appropriate state-aid fund in accordance with law for the purpose of establishing, locating, relocating, constructing, reconstructing, or improving state-aid streets or highways under its jurisdiction shall certify to the commissioner within 30 days following issuance of the bond, the amount of the total obligation and the amount of principal and interest that will be required annually to liquidate the bonded debt. The commissioner shall set up a bond account, itemizing the total amount of principal and interest involved and shall annually certify to the commissioner of finance the amount needed from the appropriate state-aid construction fund to pay the principal due on the obligation, and the amount needed from the appropriate state-aid maintenance fund to pay the current interest. Proceeds from bond sales are to be expended only on approved state-aid projects and for items determined to be eligible for state-aid reimbursement. A county or urban municipality which intends to expend bond funds on a specific state-aid project shall notify the commissioner of this intent without delay upon awarding a contract or executing a force account agreement. Upon completion of each such project, a statement of final construction costs must be furnished to the commissioner by the county or the urban municipality.

h. Municipal state-aid funds for county state-aid or trunk highway projects. The governing body of an urban municipality desiring to use a portion of its state-aid funds for improvements within its boundaries of a state trunk highway or county state-aid highway, shall have the plans approved by the state-aid engineer before the award of contract and shall have a resolution requesting the off-system expenditure approved by the commissioner before funds are released for these purposes. This subparagraph does not apply to payments made for interest on bonds sold under Laws of Minnesota 1959, chapter 538.

2. Within 30 days after the close of each six-month period, the commissioner shall submit to each county or urban municipality semiannual statements as to the status of its respective state-aid accounts.

3. Certain specific allotments or transfers of state-aid funds have been authorized by law. These will be processed as follows:

a. As to transfers for hardship conditions, the county board or governing body of an urban municipality desiring to use a part of its state-aid funds for this purpose shall certify to the commissioner that it is experiencing a hardship condition in regard to financing its local roads or streets, while holding its current road and bridge levy equal to or greater than the levy for previous years. If the requested transfer is approved, the commissioner, without requiring progress reports and within 30 days,

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shall authorize either immediate payment of not less than 50 percent of the total amount authorized, with the balance to be paid within 90 days, or schedule immediate payment of the entire amount authorized if he determines sufficient funds are available.

b. As to transfers for other local use, the county board or governing body of an urban municipality desiring to use a part of its state-aid funds on local roads or streets not on an approved state-aid system, shall certify to the commissioner that its state-aid routes are improved to state-aid standards or are in an adequate condition which does not have needs other than additional surfacing or shouldering needs as identified in its respective state-aid needs report. While preliminary approval is desirable, a construction plan for a local road or street not on an approved state-aid system and not designed to state-aid standards may not be given final approval by the office of state aid unless the plan is accompanied by a resolution from the respective county board or urban municipality that indemnifies, saves, and holds harmless the state of Minnesota and its agents and employees from claims, demands, actions, or causes of action arising out of or by reason of a matter related to the construction of the local road or street as designed; that is approved by the respective county board or urban municipality; and that agrees to defend at the sole cost of the county or urban municipality any claim arising as a result of constructing the local road or street. Payment for the project will be made in accordance with F.I.C.

c. As to township allotments, upon receipt of a certified copy of a county board resolution allocating a specific amount of the county state-aid construction funds for aid to the county's townships, upon indicating compliance with the law governing these allocations, and upon forwarding the resolution to the commissioner on or before the second Tuesday in January of each year, the commissioner shall authorize payment of the amount requested for distribution by the county for the construction of township roads.

d. For the construction of selected park projects and as provided by law, a portion of the county state-aid highway funds must be set aside and used for the construction, reconstruction, and improvement of county state-aid highways providing access to the headquarters of or the principal parking lot located within a state park. These funds set aside must be expended for this purpose only on a request from the commissioner of natural resources. Projects selected will be approved by the commissioner of transportation in accordance with the procedure established for other state-aid operations.

e. A disaster appropriation approved by the commissioner for a county or urban municipality in accordance with law, must be promptly paid to the county or urban municipality for which the appropriation was authorized. The funds so allotted and paid to the county or urban municipality may only be spent for the purpose for which they were authorized, and within a reasonable time period specified by the commissioner. Immediately upon completion of the work for which the disaster payment was made or the expiration of the time specified for doing the work, whichever occurs first, the county or urban municipality shall file a report certifying the extent of the authorized work completed and showing the total expenditure made. In the event the total disaster allotment was not required or used for the purpose specified, the remainder must be promptly returned to the commissioner for redeposit in the county state-aid highway fund or the municipal state-aid street fund, as the case may be, and apportioned by law. Damage estimates submitted by a county or urban municipality must exceed ten percent of the current annual state-aid allotment to the county or urban municipality before the commissioner shall authorize the disaster committee to inspect the disaster area.

f. County and municipal state-aid funds that may be annually allocated to the research account must be used solely for those research projects recommended by the local road research board and approved by the commissioner. Unexpended balances in this account at the end of each year must be transferred back to the state-aid fund from which they were obtained.

g. A percentage of the net highway user tax distribution fund has been set aside by law and apportioned to separate accounts in the county state-aid highway fund and the municipal state-aid street fund, and respectively identified as the county turnback account and the municipal turnback account. Further, a percentage of the county turnback account has been set aside and must be used for replacement or reconstruction of town bridges ten feet or more in length, in those counties that have two or more towns, pursuant to the law. This latter account is known as the county town bridge account. Further, a percentage of the county turnback account must be apportioned to the counties for the construction and reconstruction of town roads. This account is known as the town road account.

(1) The funds set aside for town bridges must be allocated to the eligible counties on the basis of town bridge needs.

(2) The amounts to be distributed to the counties from the town road account must be determined according to the formula prescribed by Laws of Minnesota 1983, chapter 17, section 3, subdivisions 2 and 4.

(a) The funds apportioned to a county from the town road account must be distributed to the treasurer of each eligible town within 30 days of the receipt of the funds by the county treasurer, according to a distribution formula adopted by the county board. The county board must consider each town's levy for road and bridge purposes, its population, town road mileage, and other factors considered advisable to the interest of achieving equity among the towns.

The county treasurer is the treasurer for eligible unorganized towns.

(b) If a county board does not adopt a distribution formula, the funds will be distributed to the town according to the following:

(i) The county auditor shall certify to the commissioner the name of each town that has levied two mills on the dollar of the assessed value of the town for road and bridge purposes in the year preceding the allocation year.

(ii) The county auditor shall certify to the commissioner the name of each unorganized town in which the county has levied two mills on the dollar of the assessed value of the unorganized town for town road and bridge purposes in the year preceding the allocation year.

(iii) Fifty percent of the funds apportioned to a county will be distributed to an eligible town based upon the percentage that its population bears to the total population of the eligible towns in the county.

(iv) Fifty percent of the funds apportioned to a county will be distributed to eligible towns based upon the percentage of the town road mileage of each town to the total town road mileage of eligible towns in the county.

(3) At any time the commissioner determines that either the county or municipal turnback accounts, notwithstanding the town bridge accounts or the town road accounts, has accumulated a surplus not needed for turnback purposes, he shall properly notify the commissioner of finance requesting the transfer of the surplus to the respective county state-aid highway fund or municipal state-aid street fund for apportionment as provided by law.

(4) Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county or urban municipality from turnback account funds up to 95 percent of the turnback share of the contract. The commissioner shall retain the remaining percentage of the turnback share of the contract until the final cost is determined and the project accepted by the district engineer. On force account agreements partial estimates will be accepted on turnback projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall release from the respective turnback account 95 percent of the value as reported by partial estimates on an eligible turnback project. Requests for reimbursement of preliminary and construction engineering costs on an eligible turnback project must be submitted and payment will be authorized in accordance with 1.d.(1) and (2) engineering costs.

(5) Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county, from town bridge account funds, up to 95 percent of the town bridge account share of the contract. The commissioner shall retain the remaining five percent until the final cost is determined and the project is accepted by the district engineer.

h. Upon receipt of a certified copy of a county board resolution requesting the transfer of a portion of or the total accumulated amount in the county municipal account fund, to the county regular account fund, the commissioner shall transfer the funds provided:

(1) the county submits a written request to the commissioner and holds a public hearing within 30 days of the request to receive and consider objections by the governing body of a city within the county, having a population of less than 5,000, and no written objection is filed with the commissioner by the city within 14 days of that hearing;

(2) if within 14 days of the public hearing held by the county a city having a population of less than 5,000 files a written objection with the commissioner identifying a specific county state-aid highway within the city which is requested for improvement and the commissioner investigates the nature of the requested improvement and finds the identified highway is not deficient in meeting minimum state-aid street standards or the county has shown evidence that the identified highway has been programmed for construction in the county's five-year capital improvement budget in a manner consistent with the county's transportation plan or there are conditions created by or within the city beyond the control of the county that prohibit programming or reconstruction of the identified highway.

G. Minimum state-aid standards.

1. Geometric design standards:

a. The following standards apply to rural design undivided roadways:

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RURAL UNDIVIDED GEOMETRIC STANDARDS

Projected ADT	Lane Width	Shoulder Width	(1)	(2)	(3)	Structural Design Strength	Surfacing	(4) New and Rehabilitated Bridges Width Curb-Curb	Bridges to Remain	
			Inslope	Recovery Area	Design Speed				Width Curb-Curb	Structural Capacity
0-49	11'	1'	3:1	7'	30-50	—	Traffic Bound	24'	22'	H-15
50-99	11'	3'	3:1	9'	30-50	—	Traffic Bound	28'	22'	H-15
100-399	12'	4'*	4:1	15'	40-50	7-Ton Ult.	Paved	32'	24'	H-15
400-749	12'	4'*	4:1	20'	40-60	7-Ton Ult.	Paved	32'	24'	H-15
750-999	12'	6'*	4:1	25'	40-60	7-Ton Ult.	Paved	36'	28'	H-15
1000 & Over	12'	8'	4:1	30'	40-60	9-Ton	Paved	40'	30'	H-15

(1) Applies to slope within recovery area only.

(2) Obstacle-free area (measured from edge of traffic lane). Culverts with less than 27" vertical height allowed without protection in recovery area.

(3) Subject to terrain.

(4) Minimum widths listed apply, except that lesser widths may be approved upon justification when the bridge length exceeds 200'. HS-20 loading required.

* Initial roadbed width must be adequate to provide a finished roadbed width for nine-ton design.

b. The following standards apply to those roadways that meet indicated conditions:

SUBURBAN GEOMETRIC DESIGN STANDARDS*

Projected ADT	Lane Width	Shoulder Width	(1)	(2)	Design Speed	Structural Design Strength	(3) New and Rehabilitated Bridges width curb-curb	Bridges to Remain	
			Inslope	Recovery Area				Width curb-curb	Structural capacity
Less Than 1000	12'	6'	4:1	20'	40	9-Ton	36'	28'	H-15
1000 & over	12'	8'	4:1	20'	40	9-Ton	40'	30'	H-15

* This standard applies only when the project is located in an area where the following conditions exist:

1. a platted area or an area in a detailed development process; or
2. physical restraints are present which prevent reasonable application of the rural design standards.

(1) Applies to slope within recovery area only.

(2) Obstacle-free area (measured from edge of traffic lane). Culverts with less than 27-inch vertical height allowed without protection in recovery area.

(3) Minimum widths listed apply, except that lesser widths may be approved upon justification when the bridge length exceeds 200'. HS-20 loading required.

c. The following standards apply to forest highways within national forests and state park access roads:

FOREST HIGHWAYS WITHIN NATIONAL FORESTS AND STATE PARK ACCESS ROADS

Projected ADT	Lane Width	Shoulder Width	(1)	(2)	Design Speed	Surfacing	Structural Design Strength	(4) New and Rehabilitated Bridges Width Curb-Curb	Bridges to Remain	
			Inslope	Recovery Area					Width Curb-Curb	Structural Capacity
0-99	11'	2'	3:1	9'	30-50	Aggregate	— — —	28'	24'	H-15
100-749	12'	2'	3:1	15'	35-50	Paved	9-Ton	32'	24'	H-15
750-999	12'	4'	3:1	15'	35-50	Paved	9-Ton	32'	28'	H-15
1000 & Over	12'	6'	4:1	20'	40-50	Paved	9-Ton	36'	28'	H-15

(1) Applies to slope within recovery area only.

(2) Obstacle-free area (measured from edge of traffic lane). Culverts with less than 27-inch vertical height allowed without protection in the recovery area.

(3) When bicycle path utilize shoulder, shoulders must be a minimum of 4 feet and must be paved.

(4) HS-20 loading required.

d. The following standards apply to urban design roadways:

**URBAN STATE-AID STREETS
30 MPH DESIGN SPEED
TOTAL WIDTH IN FEET
FACE TO FACE OF OUTER CURBS**

No. of Through Lanes	Density	Undivided, No Parking Lanes	With Median, No Parking Lanes		Undivided, With Parallel Parking Lanes		With 4' Median and Two Parallel Parking Lanes
			4' Median	14' Median	One Side	Both Sides	
2	Low	28			34	40	
(Collector)	High	32			36	44	
4	Low	44	50	60	56	64	70
(Collector)	High	50	54	64	60	68	74
2	Low	36			38	48	
(Arterial)	Low	50	54	64	60	68	74
4	High	52	58	68	62	72	80
(Arterial)	High	76	82	92	86	96	104

NOTE: All urban design roadways must be a minimum nine-ton structural design. New and rehabilitated bridges must have a curb to curb width equal to the required street width. HS-20 loading required.

Where design speed is 40 mph or less, provide two-foot clearance from face of curb to fixed objects.

URBAN ROADWAY CLASSIFICATION

CLASSIFICATION	FACILITY FUNCTION	DESIGN CHARACTER	PROJECTED ADT RANGE
Collector (Low Density)	Serves as feeder facility from neighborhood and local streets to the collector/arterial network. Also serves access for business and residential development.	Low to moderate operating speeds.	200-3000 ADT
Collector (High Density)	Collects traffic from local and feeder streets and connects with arterials. Can serve local business districts.	Moderate operating speed provides access and traffic mobility.	1000-7000 ADT
Arterial (Low Density)	Serves intra-community travel. Augments high density arterial system.	Some access control with emphasis on traffic mobility.	5000-10,000 ADT
Arterial (High Density)	Forms backbone of urban network. Serves as through facility.	Provides for through traffic and turning movements. May provide divided roadway and access control.	8000 ADT and up

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e. The following minimum requirements apply to resurfacing projects:

RURAL STATE-AID HIGHWAYS

Present ADT	Structural Design Strength	Pavement Width	Shldr-Shldr Width	Design Speed
Under 100	7-Ton	22'	26'	30
100-749	7-Ton	22'	26'	40
750-999	7-Ton	22'	30'	40
1000 and over	7-Ton	24'	32'	40

Widths of bridges to remain in place must equal roadway pavement width. H-15 loading required.

FOREST HIGHWAYS WITHIN NATIONAL FORESTS AND STATE PARK ACCESS ROADS

Present ADT	Structural Design Strength	Pavement Width	Shldr-Shldr Width	Design Speed
0-1000	7-Ton	22'	26'	30
Over 1000	7-Ton	24'	28'	35

NOTE: Bridges to remain in place must be at least equal in width to the pavement width. H-15 loading required.

URBAN STATE-AID STREETS

TOTAL WIDTH IN FEET FACE TO FACE OF OUTER CURBS

No. of Through Lanes	Density	Undivided, No Parking Lanes	With Median, No Parking Lanes		Undivided, With Parallel Parking Lanes		With 4' Median and Two Parallel Parking Lanes	Existing Design Strength
			4' Median	14' Median	One Side	Both Sides		
2 (Collector)	Low	28			32	38		7-Ton
	High	30			32	40		7-Ton
4 (Collector)	Low	40	44	54	50	58	64	7-Ton
	High	44	48	58	54	62	68	7-Ton
2 (Arterial)	Low	30			32	42		9-Ton
	High	44	48	58	54	62	68	9-Ton
4 (Arterial)	Low	46	52	62	56	66	74	9-Ton
	High	70	76	86	80	90	98	9-Ton

Recovery area standards not applicable.

For urban roadway classification see G.1.d.

f. The following vertical clearances for underpasses apply:

VERTICAL CLEARANCES FOR UNDERPASSES

	Rural-Suburban Design Vertical Clearance	Urban Design Vertical Clearance
Highway under roadway bridge	16'4"	14'6"
Highway under railroad bridge	16'4"	14'6"
Highway under pedestrian bridge	17'4"	14'6"
Highway under sign structure	17'4"	14'6"
Railroad under roadway bridge	22'0"	22'0"

2. Specifications for construction must be the latest approved Minnesota Department of Transportation specifications, except as modified by special provisions which set forth conditions or requirements for work or materials not covered by the approved specifications, or which set forth conditions or requirements to meet exigencies of construction peculiar to the approved project.

3. The minimum widths of right-of-way for state-aid routes must be not less than 60 feet within municipalities and 66 feet

in rural areas. Prior to construction the counties shall acquire control of such additional widths of right-of-way in rural areas, as may be necessary to properly maintain the ditch section.

4. Parking provisions:

a. The following criteria must be used in establishing diagonal parking:

**Minimum Design Standards for
45-Degree and 60-Degree Diagonal Parking**

Parking Angle	Stall Width	Stall Depth	Traffic Aisle Width	Length Along Curb	Roadway Width (Minimum)	Present ADT	Legal Speed Limit
45°	9'	19.8'	13.2'	12.7'	33'	Less than 3000	30 MPH or less
60°	9'	21.0'	18.0'	10.4'	39'	Less than 3000	30 MPH or less
45°	9'	19.8'	25.2'	12.7'	45'	3000 and over	30 MPH or less
60°	9'	21.0'	30.0'	10.4'	51'	3000 and over	30 MPH or less

b. Diagonal parking provisions must be established by cooperative agreement between the local road authority and the commissioner.

The cooperative agreement must indicate the angle of parking, provide for pavement marking of the parking lanes, and provide that the road authority may alter parking provisions if traffic volumes exceed the design criteria.

c. The minimum design standards for roadways with parallel parking are shown in 1.d.

d. Minnesota Statutes, section 169.34 must be adhered to in determining diagonal parking spacing.

H. State-aid operations. State-aid funds allotted to counties and urban municipalities must be expended in accordance with the following provisions:

1. With regard to maintenance, the commissioner shall require a reasonable standard of maintenance on state-aid routes within the county or urban municipality, consistent with available funds, the existing street or road condition, and the traffic being served. This maintenance must be considered to include:

- a. the maintenance of road surfaces, shoulders, ditches, and slopes and the cutting of brush and weeds affecting the respective state-aid systems;
- b. the maintenance and inspection of bridges, culverts, and other drainage structures pursuant to Minnesota Statutes, section 165.03;
- c. the maintenance of regulatory and direction signs, markers, traffic control devices, and protective structures in conformance with the current manual on uniform traffic control devices affecting the respective state-aid systems;
- d. the striping of pavements of 22 feet or more in width, consistent with the current manual on uniform traffic control devices, and for which there are no pending improvements;
- e. the exclusion of advertising signs, billboards, buildings, and other privately owned installations other than utilities of public interest from the right-of-way of an approved state-aid project;
- f. the installation of route markers on rural state-aid highways.

(1) Route markers must be a minimum of 16 inches by 16 inches square with black letters or numerals on a white background.

(2) Wherever county road authorities elect to establish and identify a special system of important county roads, the route marker must be of a pentagonal shape and must consist of a reflectorized yellow legend (county name, route letter, and number) and border on a blue background of a size compatible with other route markers.

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ADOPTED RULES

When, in the opinion of the commissioner, the maintenance of a county or municipal state-aid route is determined to be unsatisfactory, he shall retain up to ten percent of the current annual maintenance apportionment to the responsible county or urban municipality. Funds so retained must be held to the credit of that county or urban municipality until the unsatisfactory condition has been corrected and a reasonable standard of maintenance is provided.

The commissioner's biennial report to the legislature shall enumerate such funds retained more than 90 days, together with an explanation for this action.

2. With regard to construction, survey, plans, and estimates for state-aid projects must be made by or under the immediate direction of the county highway or city engineer in accordance with standards as to form and arrangement prescribed by the commissioner.

a. Plans and estimates for each state-aid construction project must be submitted for review. Each plan shall show the subsequent stages required for the completion of the improvement, portions of which may be covered by later contracts or agreements. Only those projects for which plans are approved by the state-aid engineer prior to the award of contract or approval of a force account agreement are eligible for state-aid construction funds.

b. Approved projects will be assigned state-aid project numbers and must be so identified in records of the Minnesota Department of Transportation and the local governmental unit.

c. Upon award of a state-aid contract by a county or urban municipality, the engineer shall furnish the commissioner with an abstract of bids and a certification as to the specific contract and bond executed for the approved construction work.

d. A county or urban municipality desiring to use funds credited to it on a force account basis shall have its engineer file a request with the commissioner for each construction project to be built by the county or urban municipality at agreed unit prices which must be based upon estimated prices for contract work, less a reasonable percentage to compensate for move-in, move-out, taxes, and contractor's profit. These requests must contain a complete list of pay items and the unit prices at which it proposes to do the work. Prior to the approval by the commissioner, the district engineer shall file recommendations with the commissioner as to the request and the cost estimate. Items of work other than those listed as a pay item or approved by supplemental agreements must be considered incidental work not eligible for state-aid payment.

e. Prior to final acceptance of each construction project by the commissioner, the county highway engineer or the city engineer shall submit to the commissioner final project records as the commissioner may deem necessary or desirable.

f. On state-aid construction projects payments will be made in accordance with F.1.c.(1)-(4).

3. The funds in the county and municipal turnback accounts must be expended only as payments to a county or urban municipality for the approved repair and restoration or reconstruction and improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth in a. Further, a percentage of the county turnback account has been set aside, as provided by law, and must be used for replacement or reconstruction of town road bridges that are ten feet or more in length in those counties that have two or more towns.

a. Eligibility:

(1) Any former trunk highway reverted to county or urban municipal jurisdiction subsequent to July 1, 1965, and which is part of the county state-aid highway or municipal state-aid street systems, is eligible for payment from the respective turnback account for costs covering the repair and restoration or the reconstruction and improvement of those highways as detailed on approved plans. Approval of plans for the initial construction of these projects must be limited to a period of five years from the date of reversion. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each approved project must be advanced to construction status within one year after notification to the county or urban municipality that sufficient funds are available for the construction of the project. Payment for repair and restoration or reconstruction and improvement of a section will terminate eligibility for repair and restoration or reconstruction and improvement of that section with turnback funds.

(2) Any town bridge, ten feet or more in length, is eligible for replacement or reconstruction after all pertinent data supplied by local citizenry, local units of government, the regional development commission, or the metropolitan council, is reviewed by the county board and a formal resolution by the county board is adopted identifying the town bridge or bridges to be replaced or reconstructed. Payment to the counties will be limited to 90 percent of the cost of the bridge, and will be made in accordance with F.3.g.(4).

b. Plans for county or municipal state-aid turnback or town bridge projects must be submitted to the commissioner and be approved before reconstruction or improvement work is undertaken. State-aid rules consistent with the turnback regulations apply to projects to be financed from the county or municipal turnback accounts or the town bridge account.

c. As soon as the plans for a state-aid turnback or town bridge project are approved, the county or urban municipality

must be furnished either an authorization to proceed with construction or a notice that sufficient funds are not available within the applicable turnback account or town bridge account and that a priority has been established for the project for construction authorization as soon as funds are available. When local funds are advanced by the county or urban municipality to construct an approved project for which sufficient funds are not available in the turnback account or town bridge account, authorization to proceed with construction will be notification that the agreement for reimbursement of funds, in accordance with F.I.f., has been approved by the commissioner.

I. General rules. In addition to those provisions previously mentioned, expenditures of state-aid funds by a county or urban municipality must conform to the following rules:

1. State-aid construction projects must comply with federal, state, and local laws, together with ordinances, rules, and regulations applicable to the work. Responsibility for compliance rests entirely with the local unit of government.

2. Plans for bridge construction or bridge reconstruction projects must be approved by the bridge engineer of the Minnesota Department of Transportation prior to the approval by the state-aid engineer.

3. Annual reports, status maps, and maintenance and construction reports and records must be filed at the time and in the form specifically requested by the commissioner or his authorized representatives.

4. The commissioner, upon determination that a county or urban municipality has failed to comply with the established state-aid requirements other than for unsatisfactory maintenance, or has failed to fulfill an obligation entered into for the maintenance or improvement of a portion of a state trunk highway or interstate route, shall determine the extent of the failure and the amount of the county's or urban municipality's apportionment that must be retained until a time when suitable compliance is accomplished or the obligation fulfilled, as the case may be. The amount withheld must reasonably approximate the extent of the noncompliance or the value of the unfulfilled obligation.

5. When unsatisfactory conditions are found to exist on an approved construction project, the district state-aid engineer may, if necessary, order the suspension of all work affected until the unsatisfactory condition is satisfactorily corrected. Failure to conform with the suspension order must be considered willful noncompliance. Work or materials which fail to conform to the requirements of the contract or force account agreement must be considered as defective. Unless the work is satisfactorily remedied or repaired before final acceptance is requested, the commissioner shall either withhold funds in accordance with 4., or shall establish the reasonable value of the defective work as the basis for settlement with the county or urban municipality.

6. The commissioner may, as authorized by law, execute agreements with a county or urban municipality or other governmental unit for technical assistance from the Department of Transportation. These services, if furnished, must be paid for by the governmental subdivision at the rates established by the Department of Transportation.

J. General state-aid limitations. The extent of state-aid participation on special items are limited as follows:

1. The lighting of hazardous or accident prone locations must be considered an eligible expense to the following extent:

a. For new construction, the cost of complete lighting at approved locations only on multiple lanes.

b. The cost of lighting approved intersections on single-lane design.

c. Locations where the municipality would normally install lighting units are not considered as an eligible expense. The county or urban municipality shall furnish traffic information or other needed data to support its request.

d. For reconstruction, all costs incidental to the necessary revision or relocation of existing lighting facilities, up to and including the cost of completing the new base.

2. Traffic control signals:

a. For state-aid projects:

(1) Plans for the construction or reconstruction of the electrical portion of traffic control signals must be designed by a master electrician licensed in the state of Minnesota or by an electrical engineer registered in the state of Minnesota.

(a) The district state-aid engineer shall review these plans upon submittal by the local engineer and make recommendations to the state-aid engineer.

(b) The state-aid engineer shall approve the electrical portion of these plans based on the certification of the

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ADOPTED RULES

master electrician or electrical engineer and the remainder of the plan based on the certification of a registered professional civil or highway engineer.

(2) Plans for the construction or reconstruction of the electrical portion of traffic control signals not certified by a master electrician or electrical engineer must be approved by the traffic engineer of the Minnesota Department of Transportation prior to the approval of the state-aid engineer.

b. For federal aid projects, plans for the construction or reconstruction of traffic control signals must be approved by the traffic engineer of the Minnesota Department of Transportation prior to the approval by the state-aid engineer.

c. The extent of state-aid participation in signal installations shall be determined by the state-aid engineer in relation to the proportion of state-aid routes involved at each installation.

3. The cost of lands and properties required for right-of-way to accommodate the design width of the street or highway as governed by the state-aid standards, including necessary width for sidewalks, is considered an eligible expense. This cost includes relocation and moving costs as provided by law and includes damages to other lands if reasonably justified to the satisfaction of the commissioner.

4. On county state-aid projects, sidewalks are considered an eligible expense only where the proposed construction necessitates the alteration of existing walks. On municipal state-aid street projects, state-aid payment for sidewalks must be made when requested by the urban municipality but only if the in-place street meets state-aid standards.

5. Plans containing items for storm drainage must be reviewed by the hydraulics engineer for the Minnesota Department of Transportation and his recommendations obtained as to design features and the proportionate share chargeable to the state-aid system. These recommendations along with those of the district engineer must be considered in determining the maximum state-aid participation in this work.

K. Local road research board.

1. Within the law, the respective screening boards shall annually determine and recommend the amount that the commissioner shall set aside from the county state-aid highway fund or the municipal state-aid street fund, for the purpose of local road research. These funds, along with federal funds as may be provided, must be used for conducting research as provided by law.

2. The commissioner shall appoint a local research board consisting of the following members:

- a. four county highway engineers, only one of whom may be from a county containing a city of the first class;
- b. two city engineers, only one of whom may be from a city of the first class;
- c. two Department of Transportation staff engineers;
- d. one University of Minnesota staff engineer; and
- e. one ex officio secretary, who must be the department's research coordination engineer.

3. Appointments of county highway and city engineers, except for unexpired terms are for three years. The other members shall serve at the will of the commissioner.

4. Operating procedure:

a. The board shall initially meet on call from the commissioner, at which time they shall elect a chairman and establish their own procedure for the selection of research projects to be recommended to the commissioner. Final determination on research projects must be made by the commissioner, and the cost must be paid out of the state-aid research accounts provided for by law.

b. If the board recommends a project covering research in methods of and materials for the construction and maintenance of both the county state-aid highway system and the municipal state-aid street system, the board shall also recommend to the commissioner the proportionate share of the cost of the project to be borne by the respective county state-aid highway research account and the municipal state-aid street research account, based on the benefits to be realized by each system from such research project.

L. Variance:

1. A formal request by a political subdivision for a variance from these rules must:

- a. be submitted to the commissioner in writing in the form of a resolution;
- b. identify the project by location and termini;
- c. cite the specific rule or standard for which the variance is requested.

2. Additional information needed:

- a. index map;
- b. typical section:
 - (1) inplace section;
 - (2) proposed section;
- c. reasons for the request;
- d. the economic, social, safety, and environmental impacts which may result from the requested variance;
- e. effectiveness of the project in eliminating an existing and projected deficiency in the transportation system;
- f. effect on adjacent lands;
- g. number of persons affected; and
- h. safety considerations as they apply to:
 - (1) pedestrians;
 - (2) bicyclists;
 - (3) motoring public; and
 - (4) fire, police, and emergency units.

3. The commissioner shall publish notice of variance request in the *State Register* and shall request comments from interested parties be directed to the commissioner within 20 calendar days from date of publication.

4. The commissioner may appoint a committee to serve as required to investigate and determine a recommendation for each variance. No elected or appointed official that represents a political subdivision requesting the variance may serve on the committee.

a. The committee shall consist of any five of the following persons:

- (1) not more than two county highway engineers, only one of whom may be from a county containing a city of the first class;
- (2) not more than two city engineers, only one of whom may be from a city of the first class;
- (3) not more than two county officials, only one of whom may be from a county containing a city of the first class;
- and
- (4) not more than two city officials, only one of whom may be from a city of the first class.

b. Operating procedure:

(1) The committee shall meet on call from the commissioner at which time they shall elect a chairperson and establish their own procedure to investigate the requested variance.

(2) The committee shall consider the:

- (a) economic, social, safety, and environmental impacts which may result from the requested variance;
- (b) effectiveness of the project in eliminating an existing and projected deficiency in the transportation system;
- (c) effect on adjacent lands;
- (d) number of persons affected;
- (e) effect on future maintenance;
- (f) safety considerations as they apply to:
 - (i) pedestrians;
 - (ii) bicyclists;

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ADOPTED RULES

(iii) motoring public; and

(iv) fire, police, and emergency units; and

(g) effect that the rule and standards may have in imposing an undue burden on a political subdivision.

(3) The committee after considering all data pertinent to the requested variance shall recommend to the commissioner approval or disapproval of the request.

5. The commissioner shall base his decision on the criteria specified in 4.b.(2), (a)-(g) and shall notify the political subdivision in writing of his decision.

6. Any variance objected to in writing or denied by the commissioner is subject to a contested case hearing as required by law.

M. Personal expenses authorized for board or committee members. The commissioner will authorize the payment of necessary personal expenses in connection with meetings of board and committee members, appointed by him for state-aid purposes. These expenses must be reported on forms furnished by the commissioner and paid from the state-aid administrative fund.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is April 17, 1984.

COSMETOLOGY ADVISORY COUNCIL has 1 vacancy open for a customer representative. The council advises the Director of the Office of Consumer Services on matters relating to cosmetology services and on licensing procedures for cosmetologists. Meetings are at least 8 times a year at the call of the Director; members are compensated for expenses. For specific information contact the Office of the Consumer Services, 128 Metro Square Bldg., St. Paul 55101; (612) 296-8458.

BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS has 1 vacancy open for an individual actively engaged in the management of a proprietary nursing home. The board licenses administrators of nursing homes, broad/care homes and mental retardation facilities; conducts studies of nursing home administration; approves continuing education programs for administrators; investigates complaints and allegations of rule violations. Members are appointed by the governor. Quarterly meetings; members receive \$35 per diem. For specific information contact the Board of Examiners for Nursing Home Administrators, 717 Delaware St. SE., Mpls. 55414; (612) 296-5406.

Ethical Practices Board

Advisory Opinion #87

RE: Hennepin County Disclosure Law—Administration

Approved by the Ethical Practices Board on March 9, 1984

Issued to:

Vernon T. Hoppe, Director of Property Taxation
Hennepin County
A606 Government Center
Minneapolis, MN 55487

SUMMARY

87. A political committee or political fund which is registered with the Ethical Practices Board may terminate registration with Hennepin County.

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

Pollution Control Agency**Outside Opinion Sought Concerning Review of Existing Rules NPC 1 (Definitions, Severability and Variances for Noise Pollution Control Regulations) and NPC 2 (Noise Standards)**

Notice is hereby given that the Minnesota Pollution Control Agency (MPCA) is in the process of reviewing two existing rules, NPC 1 "Definitions, Severability and Variances for Noise Pollution Control Regulations" and NPC 2 "Noise Standards," which sets forth limiting levels of sound established for the preservation of public health and welfare. These standards were developed to protect speech, sleep, annoyance and hearing conservation requirements for receivers (people) within areas grouped according to land activities (use).

In April, 1982, a Noise Committee of the Agency Board was formed to afford all interested parties an opportunity to submit data or views on the possible revision of NPC 1 and NPC 2. That committee has met nine times. The Agency anticipates that a rulemaking proceeding will be conducted during the summer of 1984. Information on the committee, including minutes of the meetings, can be obtained at the offices of the MPCA.

All interested or affected persons or groups may submit information on this subject. Written statements and comments should be submitted for consideration and inclusion in the rulemaking record by May 28, 1984, and be addressed to:

Mr. David Kelso
Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Road B-2
Roseville, Minnesota 55113
(612) 296-7372

March 14, 1984

Sandra S. Gardebring
Executive Director
Minnesota Pollution Control Agency

**Department of Public Welfare
Chemical Dependency Program Division****Outside Opinion Sought Concerning Revision of Rules Governing Licensure of Residential Chemical Dependency Facilities Including Subacute Detoxification Programs**

Notice is hereby given that the Minnesota Department of Public Welfare is considering draft amendments to 12 MCAR § 2.035 and 12 MCAR § 2.032: Minimum Standards for Residential Care for Five or More Chemically Dependent Persons (DPW Rule 35) and Minimum Standards for Subacute Detoxification Programs for Five or More Persons (DPW Rule 32). Authority for these rules is found in Minn. Stat. § 245.781.

OFFICIAL NOTICES

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Bob Robertson, Residential Planner
Chemical Dependency Program Division
Department of Public Welfare
Centennial Office Building, 4th Floor
658 Cedar Street
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-4620. All statements of information and comment will be accepted until further notice. Any written material received by the Department of Public Welfare will become part of the hearing record.

Department of Transportation

Opportunity for Public Review of Programmatic Environmental Assessment

In accordance with the requirements of 23 CFR 771.119 (Environmental Assessments), notice is hereby given that the Minnesota Department of Transportation is affording an opportunity for public review of the Programmatic Environmental Assessment (Various Projects Statewide) for Reconveyance, Temporary Use Permits, and Access Control Changes.

The Programmatic Environmental Assessment (EA) is intended to cover certain right of way related actions having little or no impact on the environment. However, these actions have not been specifically listed as federal Categorical Exclusions and must each be documented by a separate EA or covered under an EA of this type.

This Programmatic EA is available for public review at the Road Plans Information Office, Room 609, State Transportation Building at St. Paul.

Any adult person wishing to review or discuss the Programmatic EA document should write or call Mr. Delbert Gerdes at the address or phone number listed below.

Comments from interested parties concerning this EA document must be submitted within 30 days of the publication of this notice. Comments should be directed to:

Delbert Gerdes
Project Liaison Engineer
Mn/DOT
Room 716, Transportation Building
St. Paul, Minnesota 55155
Phone: (612) 296-6750

Richard P. Braun
Commissioner

Department of Transportation

Petition of Becker County for a Variance from State Aid Standards for Surface Width

Notice is hereby given that the County Board of Becker County has made a written request to the Commissioner of Transportation for a variance from minimum design standards for surface width for grade widening project on CSAH 7 from South Junction CSAH 16 to the North County Line.

The request is for a variance from 14 MCAR § 1.5032, H.L.A., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162 (1978) as amended, so as to permit a surface width of 22 feet to remain in place on a grade widening project instead of the required 24 feet.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 15, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of Rock County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Rock County has made a written request to the Commissioner of Transportation for a variance from minimum design speed standards for a resurfacing project on CSAH 11 from TH 270, 3 miles West of TH 75 to CSAH 4.

The request is for a variance from 14 MCAR § 1.5032, H.I.A., Rules for State Aid Operations under Minnesota Statute, Chapters 161 and 162, (1978) as amended, so as to permit a design speed of 40 miles per hour instead of the required 45 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 12, 1984

Richard P. Braun
Commissioner of Transportation

Water Resources Board

Notice of Hearing on the Proposed Establishment of the Rice-Koronis Watershed District

A public hearing on a petition requesting establishment of the Rice-Koronis Watershed District in parts of Stearns, Meeker, and Kandiyohi Counties will be held on April 6, 1984, beginning at 10:00 a.m. in the American Legion Hall, 305 Augusta Avenue, Paynesville, Minnesota 56362. The hearing will be conducted by state hearing examiner, Allan Klein.

For more information, contact:

Mel Sinn, Executive Director
Water Resources Board
555 Wabasha Street, Room 206
St. Paul, Minn. 55102
(612) 296-2840

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers at the indicated phone numbers as soon as possible. If the specific buyer is not available, contact Barbara Jolly or Harvey Leach at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
79-000-41414	Surveying Instruments and Equip.	Transportation	Rm B-20 DOT Bldg. St. Paul	Contact buyer	Joyce 297-3830
78-550-04407	Fire Alarm Renovation & Repair	MN Correctional Facility	Lino Lakes	Contact buyer	Maurie 296-3772
78-620-16279 Sch. 113	Filter Bags Lease/Purchase-Cars	MCF Central Motor Pool	Stillwater St. Paul	Contact buyer Contact buyer	Cy 296-2621 Dale 296-3773
79-000-41406	Purchase of Microfilm Reader/Printer	Transportation	St. Paul	Contact buyer	Doug 296-3775
02-307-43420	3-Wheel Turf Truckster	Admin/Plant Mgmt	St. Paul	Contact buyer	Dale 296-3773
Various 02-410-42484	Fertilizer Purchase of Data Compression Recording Monitor	Various Information Services Bureau	Various Same	Contact buyer Contact buyer	Cy 296-2621 Doug 296-3775
79-001-06729	Lease Purchase of Photocopy Machines	Dept. of Natural Resources, Forestry	Same	Contact buyer	Doug 296-3775
79-150-A 79-000-39750 775899, 07-500-29325 776025, 53-000-01315	Aggregate Vans Patrol Unit I.D. No. Decal Election Guides	Transportation Transportation Public Safety Secretary of State	Virginia St. Paul St. Paul St. Paul	Contact buyer Contact buyer Contact buyer Contact buyer	Jim Kinzie 296-3778 Dale 296-3773 Art 296-3742 Art 296-3742
79-000-41558 29-001-06908	Used Hydraulic Backhoe Parking Lot & Boat Ramp-Hayes Lake State Park	Transportation Dept. of Natural Resources, Region I	Crookston DNR Region I	Contact buyer Contact buyer	Dale 296-3773 Jim Kinzie 296-3778
43-000-04654	Construct 2 vault Type Toilets	Iron Range Resources & Rehabilitation Board	Eveleth	Contact buyer	Jim Kinzie 296-3778
79-000-41541 Various 79-000-41277 26-073-16080	Trailer Mounted DC Arc Welder Fertilizer Tractor Mowers Purchase of Terminal, Plotter, Graphics and Oscilloscope	Transportation St. Cloud State Univ.	Owatonna Various Various	Contact buyer Contact buyer Contact buyer Contact buyer	Maurie 296-3772 Cy 296-2621 Dale 296-3773 Doug 296-3773

Contract #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount	Contact Person
79-000-41327 REBID Sch. 113E	Aerial Bucket Trucks	Transportation Natural Resources	Various Various	Contact buyer Contact buyer	Dale 296-3773 Dale 296-3773
29-001-06896	Remodel airplane Hanger into Boat Storage	Natural Resources Region 1	Same	Contact buyer	Jim Kinzie 296-3778
13-525-06557	Purchase of Disk Drive and Workstation	Dept. of Commerce	St. Paul	Contact buyer	Doug 296-3775
26-072-08564	Purchase of Analyzer Equipment	Moorhead State Univ.	Moorhead	Contact buyer	Don 296-3777
REBID Contract	Water Softening Salt	Various	Various	Contact buyer	Harvey 296-3779
27-157-42451	Purchase of Word Processor	Inver Hills Comm. College	Inver Grove Heights	Contact buyer	Bernadette 296-2546
776154-5- & 32	Bikeways Maps	Transportation	St. Paul	Contact buyer	Art 296-3742
79-000-41520- 2-3- 776062, 29-000-3553 4	Boating & Water Safety	Natural Resources	St. Paul	Contact buyer	Art 296-3742
776036	Time Books	Transportation	St. Paul	Contact buyer	Art 296-3742
79-000-41190	Purchase of Printers & Accessories	Winona State Univ.	Winona	Contact buyer	Doug 296-3775
26-074-09278 & 09279	Repair of Trane Centrifugal Chiller	Southwest State Univ.	Marshall	Contact buyer	Ed 296-3770
02-307-43404	Supply & Install Telescoping Door	Administration	St. Paul	Contact buyer	Jim Kinzie 296-3776
12-200-77789	Atomic Absorption Spectrophotometer	Health	Mpls	Contact buyer	Donnalee 296-3776
Contract	Fire Extinguisher Servicing & Recharging	Various	Various	\$5,000-10,000	Maurie 296-3772

**Department of Administration
Contract Management Division**

Request for Proposals for Court Reporting and Transcription Services

The Minnesota Department of Administration is acting as contracting agent for State departments and agencies that have a need for:

1. Court reporting services to provide an accurate and verbatim record of proceedings and depositions required by state and federal law, and
2. Transcription services to prepare an accurate and verbatim typewritten record from proceedings recorded on single track or four track audio magnetic recording devices; such as 5" reel-to-reel tapes and standard cassette tapes.

All state agencies needing one or both of these services will be required to use the contracts resulting from this proposal. Some of the state agencies having a need for the services are the Attorney General's Office, Office of Administrative Hearings (Administrative Procedure Act and Workers' Compensation Law hearings), Department of Labor and Industry, Tax Court, Public Utilities Commission, Department of Public Service, Environmental Quality Board, Pollution Control Agency, Mediation Services, Public Welfare, Transportation and Economic Security.

IT IS UNLIKELY THAT WE WILL BE SOLICITING ADDITIONAL PROPOSALS DURING FISCAL YEAR 1985.

Additional information on the requested services will be included in the Request for Proposal which will be sent to all persons or associations who ask to receive one. Persons or associations desiring to receive a Request for Proposal must request one by

STATE CONTRACTS

notifying Dennis Reek, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7643, no later than 4:30 p.m., April 20, 1984. Final proposals must be received by the Contract Management Division of the Department of Administration by 4:30 p.m., Friday, April 27, 1984.

Office of Administrative Hearings

Request for Proposal for Hearing Examiner Services

The Minnesota Office of Administrative Hearings will be contracting with qualified attorneys to serve as hearing examiners for fiscal year 1985, beginning July 1, 1984, and ending on June 30, 1985.

Attorneys must be admitted to practice law in the State of Minnesota at the time they apply. Remuneration for contractual hearing examiners is \$40.00 per hour. Additional information on the requested services is detailed in the Request for Proposal which will be sent to all persons who ask to receive one. Persons desiring to receive a Request for Proposal must request one by notifying Duane R. Harves, Chief Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7640, no later than 4:30 p.m. on Friday, April 20, 1984. Final proposals must be received by the Office of Administrative Hearings by 4:30 p.m. on Friday, April 27, 1984.

Department of Economic Security

Request for Proposals for Operation of Dislocated Worker Program

In accordance with Laws of 1979, Chapter 336, The Minnesota Department of Economic Security, Governor's Job Training Office is requesting proposals from qualified bidders to operate dislocated worker programs in the State of Minnesota. Approximately \$1,800,000 will be available for dislocated worker programs to operate in Federal Program Year 1984.

Request For Proposal Application is available upon request. Inquiries and request should be directed to:

Ed Retka
Governor's Job Training Office
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: (612) 296-7918

Proposals must be received by the Governor's Job Training Office no later than Friday, April 27, 1984 at 5:00 p.m.

Department of Energy and Economic Development Energy Division

Request for Proposals—HERS FOCUS Group

Notice is hereby given that the Department of Energy and Economic Development (DEED), Energy Division, intends to engage the services of a contractor to facilitate FOCUS groups for a Minnesota Home Energy Rating System (HERS). The purpose of the HERS FOCUS Group meetings are to identify the concerns and issues for a particular audience concerning the importance of a house's energy features in the house selling and selection process. The FOCUS Group Meetings are an exploratory research tool providing insight into the specific marketing needs of a select group of people, and are intended to function as the first step in developing a Minnesota Home Energy Rating System.

This contract will be for the time period from April 10, 1984 to June 20, 1984. The Energy Division does not expect this total contract to exceed \$10,000.

Those interested in receiving the RFP should contact:

Charles Lane
Research Scientist
Minnesota Department of Energy and Economic Development
Energy Division
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Proposals will be accepted until 2:00 p.m. Monday, April 2, 1984.

Metropolitan Council

Invitation for Sealed Bids for Mailing Services

The Metropolitan Council, 300 Metro Square Bldg., St. Paul, 55101, is requesting sealed bids to provide mailing services.

Bids should include availability of service, rates and charges to include pick up and delivery, machine or hand labeling, sorting, posting, multiple insertion, delivery to post office and turn around time.

Sealed bids will be accepted by the Metropolitan Council until 4 p.m., March 27, 1984. The Council's purchasing officer will publicly open the sealed bids in the Council offices at 10 a.m., March 28, 1984.

All sealed bids shall be marked "Bids for Mailing Services—to be opened on March 28, 1984."

The Metropolitan Council reserves the right to reject any or all bids, and to waive any minor irregularity or deviation from the specifications.

Gerald J. Isaacs,
Chairman

Minnesota Correctional Facility, Red Wing

Notice of Availability of Contracts (5) for Health Care and Social Services Positions

NOTICE OF AVAILABILITY OF CONTRACT FOR MEDICAL CLINIC SERVICES

The program at the Minnesota Correctional Facility-Red Wing requires the services of a medical clinic. This clinic will provide all clinic services as ordered by the medical staff at MCF-Red Wing. Annual cost is limited to \$9,000.00.

NOTICE OF AVAILABILITY OF CONTRACT FOR PSYCHOLOGICAL EVALUATION SERVICES

The program at the Minnesota Correctional Facility-Red Wing requires the services of a licensed psychologist. This person will provide the written psychological evaluation—through testing, interviews, etc., on up to a twice weekly basis for all new admission to the institution, to re-test selected youths based upon specific staff referral, plus limited staff training in the area of his/her expertise. Payment is \$248.08 per 8-hour day. Annual cost is limited to \$23,600.00.

NOTICE OF AVAILABILITY OF CONTRACT FOR VOLUNTEER SERVICES COORDINATOR

The program at the Minnesota Correctional Facility-Red Wing requires the services of a volunteer coordinator. Position requires up to 50 hours per week for 10 months (September-June), and up to 15 hours per week for the two months in July and August. Responsibilities include the providing of professional volunteer services for juvenile clients at the institution through the recruiting and training of volunteers, plus the development of a coordinated scheduling of the volunteers to augment the on-going programs. Payment is \$1,785.00 per month from September-June, and \$804.00 per month in July and August. Annual cost is limited to \$19,458.00.

NOTICE OF AVAILABILITY OF CONTRACT FOR DIETETIC SERVICES

The program at the Minnesota Correctional Facility-Red Wing requires the services of a licensed dietician. This person will provide professional dietetic consultation, enabling dietetic staff to provide hygienic dietetic services that meet the daily nutritional needs of residents, ensures that special dietary needs are met, and provides palatable, attractive and acceptable meals. The consultant will provide a minimum of 12 hours per month of professional services. Annual cost is limited to \$3,000.00.

For further information on these contracts, contact:

Thomas P. Kernan, Assistant Superintendent
Minnesota Correctional Facility-Red Wing
Box 45
Red Wing, Minnesota 55066
Telephone: (612) 388-7154

Final submission date for these contracts is May 1, 1984.

NOTICE OF AVAILABILITY OF CONTRACT FOR CERTIFIED DRIVER EDUCATION INSTRUCTOR SERVICES

The program at the Minnesota Correctional Facility requires the services of a certified driver education instructor. This position requires up to 57 hours per month of instruction. Responsibilities include classroom and behind-the-wheel instruction, testing and record keeping. The instructor shall provide a safety certified driver education car. The instructor would also be

STATE CONTRACTS

required to provide special instruction to students on a special need basis. Hours of instruction will be coordinated with general school schedules. Payment is \$10.00/hr. Annual cost would be limited to \$6,900.00.

For further information on this contract, contact:

John Odden, Director of Education
Minnesota Correctional Facility-Red Wing
Box 45
Red Wing, Minnesota 55066
Telephone: (612) 388-7154

Final submission date for this contract is May 1, 1984.

Department of Natural Resources

Request for Proposal for Water Surface Use Survey

The Department of Natural Resources is issuing a request for a proposal from firms interested in developing, conducting and analyzing a survey of water surface use on the lakes in Minnesota's seven county metropolitan area (Ramsey, Hennepin, Dakota, Washington, Anoka, Carver and Scott counties).

The contract will run from April 15, 1984 to October 30, 1984 and will not exceed \$30,000.00 for professional services.

For formal request for proposal documents, interested parties should contact:

Bill Becker
DNR—Office of Planning
Box 10, Centennial Building
St. Paul, MN 55155

Proposals must be submitted no later than 4:30 p.m., March 30, 1984. An interview may or may not be required.

State Designer Selection Board

Request for Proposal for an Environmental Management Analysis and Plan

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select designer to prepare an Environmental Management Analysis and Plan for Camp Ripley, Little Falls, Minnesota. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., April 18, 1984, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
4. The proposal should consist of the following information in the order indicated below:
 - a) Number and name of project.
 - b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
 - c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
 - d) A commitment to enter the work promptly and to assign the people listed in "c" above and to supply other necessary staff.
 - e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.

f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

5. In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
- b) A statement certifying that your firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
- c) A statement certifying that your firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months.

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded.
- b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7) PROJECT—2-84

**Environmental Management
Analysis and Plan
Camp Ripley
Little Falls, Minnesota
FEES: Between \$40,000.00 and \$60,000.00**

PROJECT DESCRIPTION:

A. General: The proposed project is designed to result in a formal Environmental Assessment (EA) requiring compliance with the National Environmental Policy Act (NEPA) in combination with a Comprehensive Environmental Management Plan for Camp Ripley. This is Phase II of a four phased Environmental Management Analysis and Plan (EMAP) for Camp Ripley.

B. Site Location: The project will study Camp Ripley, which is approximately seven miles north of Little Falls, Minnesota, on State Highway No. 371.

C. The Phase II EMAP Document for Camp Ripley will include the following Sections:

1. Purpose and need for the EMAP Phase II at Camp Ripley.
2. Description of Camp Ripley Training Site to include:
 - a. Existing Facilities
 - b. Existing Training/Operational Activities
 - c. Proposed Facilities
 - d. Proposed Training/Operational Activities
3. Identify reasonable alternatives for proposed facilities/activities at Camp Ripley and evaluate these alternatives against the 11 environmental attributes and their subcomponents found at enclosure I.

STATE CONTRACTS

4. Evaluate the environmental status of Camp Ripley utilizing the 11 environmental attributes and their subcomponents in accordance with the following criteria:

- a. Existing Conditions
- b. Short Term/Long Term Impacts
- c. Conclusions
- d. Recommendations

5. Conclusion as to the overall environmental status of Camp Ripley utilizing:

- a. Environmental Matrix
- b. Recommendations

6. Develop a total Environmental Management Plan for Camp Ripley

7. NEPA Decision Process

8. List of agencies and persons consulted

9. References

10. Glossary of terms

11. Environmental Appendix

D. Environmental Monitoring or Testing: No original sampling or environmental monitoring is requested to be performed by Designer. The EMAP Phase II document will be based upon existing and/or synthesized data. Designer may utilize, at his own expense, where appropriate, computer resources of U.S. Army Construction Engineering Research Laboratory (CERL) and the Waterways Experiment Station (WES). Where existing data is not available to adequately evaluate the environmental impact of existing/proposed facilities/activities on the 11 environmental attributes and their subcomponents, the Designer will develop an appropriate study to identify and generate the required data to properly evaluate the environmental attribute and produce the designed maps.

ENVIRONMENTAL ATTRIBUTES

- 1. Climate
- 2. Air Quality
- 3. Noise
- 4. Physical Setting
 - a. Land Form and Geology
 - b. Topography
 - c. Soils
- 5. Natural Resources
 - a. Minerals/Economic Geology
 - b. Vegetation
 - c. Wildlife
- 6. Land Use Development
 - a. On Post
 - b. Off Post
 - c. Pesticide Management
- 7. Waste Disposal
 - a. Solid Wastes
 - b. Hazardous Wastes
- 8. Water Resources
 - a. Surface Hydrology
 - b. Ground Water Hydrology

- c. Drinking Water
- d. Waste Water
- e. Spill Planning
- 9. Cultural Resources
- 10. Solid/Institutional/Economic Resources
- 11. Energy Resources

II. Work to be Performed by Designer: Designer will prepare a Phase II EMAP/Environmental Assessment for Camp Ripley. Work will involve gathering information and data; appropriately expressing it in text, figures, tables and graphics; analyzing environmental impact of actions; describing alternative actions; proposing recommendations to mitigate environmental impacts; and providing conclusions on environmental status and objective relationships between activities/actions and the environment. The Designer will also develop a total Environmental Management Plan for Camp Ripley using data and analysis generated by the Phase II EMAP work effort. A total of 36 maps will be generated in accordance with the computer digitization criteria to be furnished by the Department of Military Affairs.

III. Designer's Fee for Work: Fee for work will be negotiated between consultant and the Department of Military Affairs. Fees are estimated between \$40,000.00 to \$60,000.00.

The format for the project will follow a scope of work for EMAP Phase II as provided by the Department of Military Affairs.

Designer will work directly with the Department of Military Affairs, P.O. Box 150, Camp Ripley, Little Falls, Minnesota 56345. Coordination for this project will be Mr. John F. Ebert (telephone (612) 632-6631, extension 447). All questions relative to this project should be referred to Mr. Ebert.

Roger D. Clemence, Chairman
State Designer Selection Board

Department of Transportation Surveying and Mapping

Availability of Contract for Photogrammetric Services Fiscal Year 1985 (July 1, 1984 to June 30, 1985)

The Minnesota Department of Transportation desires an aerial surveys firm to provide the following photogrammetric services conforming to Mn/DOT specifications:

1. Aerial Vertical Photography

Provide negatives taken by the contractor using a precision aerial camera. The negatives shall be suitable for printing photographs and transparencies and for use in the States' photogrammetric instruments for analytical aerial triangulation and map compilation. The state may call for the use of panchromatic, color negative or infrared color emulsions in obtaining the photography.

2. Aerial Oblique Photography

Provide negatives taken by the contractor suitable for printing photography for illustrative purposes.

3. Photographic Laboratory Services

Provide, from aerial negatives, rectified, ratioed and controlled photographic enlargements and mosaics, 9½" × 9½" diapositives on glass or film suitable for photogrammetric compilation of topographic mapping and screened photographic film positives from mosaic negatives.

4. Map Compilation

Provide map compilation by Wild A-10 Autograph or equivalent type instrument for the compilation of topographic maps or photogrammetric cross-sections.

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Firms desiring consideration shall express their interest and submit their Federal Forms 254 and 255 on or before April 13, 1984.

This is not a request for proposal. Send your response to:

E. R. Larson
Director of Surveying and Mapping
Room 711
Transportation Building
St. Paul, Minnesota 55155

SUPREME COURT

Decision of the Court of Appeals Filed Wednesday, March 14, 1984

Compiled by Wayne O. Tschimperle, Clerk

C7-83-1709 Worthington Tractor Salvage, Inc., Relator v. John M. Miller and Commissioner of Economic Security. Department of Economic Security.

Acquiescence by an employer to the local non-residence of the employee, contrary to the employer's rule requiring residence where the company was located, qualifies the employee to unemployment benefits when the employee was terminated for noncompliance.

The employer properly raised the issue of eligibility for unemployment benefits because of self-employment and the department should have received evidence on this issue in a consolidated hearing.

Affirmed in part and remanded in part with instructions. Popovich, Chief Judge.

C6-83-1443 Elmer R. Van de Loo, Appellant v. Barbarah K. Van de Loo. Hennepin County.

Monies realized from injuries personal to a spouse are nonmarital property. Any portion of personal injury proceeds replacing property acquired or expected to be acquired during the marriage is marital property.

Where a spouse's share of the marital property is so inadequate that an unfair hardship results, the court may apportion up to one-half of the other spouse's nonmarital property. Minn. Stat. § 518.58 (1982).

Affirmed. Popovich, Chief Judge.

C1-83-1351 County of Anoka v. Lee Roy Richards, Appellant. Anoka County.

A reservation of child support in a paternity order does not prevent the trial court from subsequently entering a judgment in favor of the County pursuant to Minn. Stat. § 256.87 for assistance provided.

Under the terms of the paternity order made pursuant to stipulation, appellant had notice that AFDC was being expended by the County; further, appellant had adequate notice of his obligation to contribute to the support of his children.

The trial court properly determined appellant's liability under Minn. Stat. § 256.87 for previously paid public assistance.

Minn. Stat. § 518.64, subd. 2, is inapplicable where the action does not concern the modification of a prior support order.

Affirmed. Parker, Judge.

C8-83-1444 Richard Fryer v. National Union Fire Insurance Company, Appellant. Hennepin County.

Upon this record and our interpretation of the insurance contract, the insurer failed to meet its burden to show that the arbitrators clearly exceeded their powers.

Uninsured motorist provisions of an automobile insurance policy which reduce benefits because of workers' compensation benefits are ineffective.

Affirmed. Parker, Judge.

C4-83-1554 Lyn Lea, Ken S. Lea and John Doe, Appellants v. Carolyn Pieper, Robert Pieper, Mark Pieper and David Pieper, d/b/a Eaton Mobile Home Park. Dakota County.

Pursuant to Minn. Stat. § 327C, residents may not be evicted from a mobile home park for failure to sign a rental agreement when attempts to sign were thwarted by the park owners.

A resident violates the substantial annoyance provision of Minn. Stat. § 327C109, subd. 5, only if the resident engages in dangerous or annoying behavior and has been given 30 days written notice to vacate.

Under Minn. Stat. § 327C.11, subd. 2, acceptance of rent for a period (even less than a full rental period) after expiration of notice to quit waives that notice.

A rule requiring more than one occupant of a mobile home to be an owner of that home is presumed unreasonable by Minn. Stat. § 327C.05, subd 2(d).

Reversed. Parker, Judge.

C5-83-1823 Wonder Industries, Inc. Relator v. Stanley C. Marohn and Commissioner of Economic Security. Department of Economic Security.

Employee who experienced difficulty in cashing payroll checks voluntarily terminated his employment with good cause attributable to his employer.

Affirmed. Parker, Judge.

C8-83-1735 Melvin S. Boroos v. Roseau Agency, Inc., Defendant, State Farm Mutual Automobile Insurance Company and Home Insurance Company, Appellant; and Allen C. Boroos and Joyce Boroos v. Roseau Agency, Inc., Defendant, Milbank Mutual Insurance Company, d.b.a. Milbank Mutual and Home Insurance Company, Appellant. Roseau County.

The ambiguous language of an insurance policy is to be construed against the insurer who drafted the policy, and in favor of the insured.

Trial court did not err in determining that The Home's total "stacked" coverage was primary and plaintiff's personal auto insurer's coverage secondary.

Affirmed. Foley, Judge.

C4-83-1408 Marion Peterson v. City of Inver Grove Heights, Appellant. Dakota County.

The right to appeal an assessment to the district court exists only where the aggrieved property owner timely submits written objections to the assessment or has a reasonable cause for failing to so object. Minn. Stat. §§ 429.061, subd. 2, 429.081 (1982).

A property owner's subjective belief that a proposed assessment did not apply to her property was not a reasonable cause for failing to timely submit written objections to the assessment.

Reversed and remanded for dismissal. Foley, Judge.

C0-83-1213 Charles D. Olson, Appellant v. Richard E. Aretz, et al. Ramsey County.

The parties in a legal malpractice action have a constitutionally guaranteed right to a jury trial.

Damages which are remote and speculative cannot be recovered.

A suit for attorney's fees for services rendered on an open account is an action at law to be resolved by a jury.

Affirmed in part, reversed in part and remanded. Foley, Judge.

CX-83-1574 Lester Rients, et al., Appellants v. International Harvester Company and Adam Fron Implement, Defendant. LeSueur County.

Where the plaintiffs cannot show that an alleged defect in a product caused the injuries of plaintiff, Lester Rients, nor that the allegedly defective product reached the plaintiffs in substantially the same condition it was sold and delivered by the manufacturer, nor that the injury was not caused by any unusual or abnormal handling by the plaintiffs, the plaintiffs cannot, as a matter of law, prove any theory of products liability.

Affirmed. Wozniak, Judge.

C0-83-1874 James E. Blau, Relator v. Masters Restaurant Associates, Inc., d/b/a Monte Carlo Bar and Commissioner of Economic Security. Department of Economic Security.

An employee who leaves early with permission, lies about having permission, and then refuses to discuss the issue when confronted, is guilty of misconduct, disqualifying him from unemployment compensation.

Affirmed. Wozniak, Judge.

SUPREME COURT

C4-83-1442 State of Minnesota v. \$14,000 Dollars in Various Denominations of United States Currency, Appellant. Hennepin County.

The trial court did not err in refusing to set aside its summary judgment on the grounds of excusable attorney neglect where defendant's attorney failed to submit either appropriate affidavits to oppose summary judgment or an affidavit pursuant to Minn. R. Civ. P. 56.06 requesting a continuance.

Where a criminal defendant assigns cash, seized pursuant to a valid search warrant and subject to a forfeiture action, the assignee has only a contingent interest, not a security interest, in the money.

Affirmed. Sedgwick, Judge.

C5-83-1997 State of Minnesota v. Lawrence Lee Liebfried, Appellant. Martin County.

The trial court erred in failing to impose the presumptive sentence or provide departure reasons as ordered by the Supreme Court.

The trial court's refusal to follow the Supreme Court order on remand resulted in defendant's serving more time than he should have under the Sentencing Guidelines.

Reversed. Sedgwick, Judge.

C9-83-1789 Edward Glende, Relator v. Commissioner of Economic Security. Department of Economic Security.

An employee who is terminated from part-time employment for misconduct and later is laid off from separate full-time employment is not disqualified from receiving employment benefits based on the full-time employment.

Reversed. Lansing, Judge.

C1-83-1138 Richard M. Boline and DaVonna A. Boline, Appellants vs. Russell L. Doty. Ramsey County.

The amount of an attorney's lien must be fairly litigated. It may be determined either summarily in the proceeding establishing the lien or in the separate equitable action enforcing the lien.

An equitable action must be brought to enforce an attorney's lien.

Reversed and remanded for further proceedings consistent with this opinion. Lansing, Judge.

C3-83-1478 Fredrick Marvin Hanson, Appellant v. State of Minnesota. Ottertail County.

The record supports the postconviction court's finding that the evidence was sufficient to sustain the jury verdict and that the seizure of stolen property was made pursuant to a valid search warrant.

The general rule is that if defense counsel fails to object to allegedly improper argument by the prosecutor, the defendant forfeits his right to have the issue considered on appeal.

Affirmed. Lansing, Judge.

Decisions of the Supreme Court Filed Friday, March 16, 1984

Compiled by Wayne O. Tschimperle, Clerk

C0-83-370 Jeffrey Hunt, a minor, by Gary Hunt, his father and natural guardian, and Gary Hunt, individually, Appellants v. William Sherman, et al., etc., Defendants v. Gary Hunt and Mrs. Gary Hunt, Third-Party Defendants v. Sheet Metal Workers Local 547 Health and Welfare Fund, a Trust. Ramsey County.

The Employee Retirement Income Security Act, § 514, 29 U.S.C. § 1144 (1976), preempts the application of state subrogation law, as set forth in *Westendorf v. Stasson*, 330 N.W.2d 699 (Minn. 1983), to intervenor's employee benefit plan.

Affirmed. Peterson, J. Dissenting, Yetka, J.

C3-82-1471, CX-83-280 In re the Marriage of: Ruth Servin, petitioner, Appellant v. Donald Servin. Anoka County.

Notice of appeal from an order is timely if made within 30 days of service of written notice of filing thereof by the adverse party. A party has 90 days to appeal from the entry of judgment.

An appeal from an amended judgment and decree is proper when the issues on appeal were not appealable before the modification of the original judgment.

Appeal from trial court's alleged failure to award permanent spousal maintenance is premature because the trial court reserved the right to review spousal maintenance in the future.

When appellant files a supersedeas bond on appeal it is payable only if appellant is unsuccessful on appeal. If the party appealing secures a reversal or modification of the order or judgment from which an appeal is taken, that party is awarded costs of appeal.

Affirmed in part, reversed in part, and remanded. Todd, J.

C2-82-1526 North River Insurance Company and Allen H. Brown, Involuntary Plaintiff, Alfred H. Dressen, Involuntary Plaintiff v. Dairyland Insurance Company, Great Central Insurance Company, Appellant. Brown County.

An agricultural trailer is a motor vehicle under the No-Fault Act, Minn. Stat. § 65B.43, subd. 2 (1982), when connected to a pickup truck.

An injury that occurred when a farm worker attempted to remove a tarpaulin from atop a stationary trailer arose out of the maintenance or use of a motor vehicle under Minn. Stat. § 65B.43, subd. 3 (1982).

Where automobile liability policies contain ambiguous language and conflicting and undefined terms, they are construed against the insurer.

Automobile liability coverage follows the vehicle, not the person, and there can be no stacking of liability coverage.

Affirmed in part, reversed in part, and remanded. Todd, J.

C6-83-387 State of Minnesota v. Robert John Kivimaki, Appellant. St. Louis County.

The standard for determining the existence of a waiver of the right to counsel under either the fifth or sixth amendment is whether under the facts of the case there was a voluntary, knowing and intelligent abandonment of a known right or privilege.

Affirmed. Todd, J.

CX-82-186 Albert J. Bilotta, Jr., et al. v. Kelley Company, Inc., et al., Appellant. Dakota County.

In design-defect cases, a jury must be instructed on the manufacturer's duty of care to produce a reasonably safe product. We adopt as additional instructions, to be substituted for the consumer-expectation standard, set out in paragraph 2 of JIG II 118, the definition of that duty of care which we approve in *Holm v. Sponco*, 324 N.W.2d 207 (Minn. 1982).

An erroneous instruction on design defect requires a new trial on the issue of liability where it is impossible to tell whether the jury based its findings on liability on design defect or on failure to warn and the evidence on failure to warn is not conclusive against appellant as a matter of law.

Because a manufacturer may not delegate its duty to produce a reasonably safe product, the offer by a manufacturer of an optional safety device without which the product is unreasonably dangerous does not relieve a manufacturer of liability.

An instruction on express warranty should be given only if the trial court finds that the evidence supports the giving of such an instruction and if, on the verdict form, a special interrogatory is submitted to the jury on that issue.

Third-party negligence and OSHA violations which were reasonably foreseeable do not entitle a manufacturer to an instruction on superseding cause.

The evidence of causation was sufficient to submit the issue to the jury.

The negligence of the defendants will be resubmitted to the jury on retrial.

Reversed and remanded for a new trial on the issue of liability. Wahl, J. Concurring specially, Simonett and Todd, JJ.

C5-82-1035 State of Minnesota v. Kevin Brant, Appellant. Kandiyohi County.

Trial court did not prejudicially err in admitting eyewitness identification evidence challenged on due process grounds or in ruling that if defendant testified it would admit other-crime evidence to rebut defendant's testimony.

Affirmed. Wahl, J.

C4-82-1401, C4-82-1432, C6-82-1433, C8-82-1434, CX-82-1435, C5-82-1441, C7-82-1442, C9-82-1443, CX-82-1466, C1-82-1467, C4-82-1480 County of Ramsey, petitioner, Appellant (C4-82-1401); Northwestern Bell Telephone Company, petitioner (C4-82-1432, C6-82-1433, C8-82-1434, CX-82-1435) Minnesota Department of Administration, Appellant (C5-82-1441, C7-82-1442); Minnesota Business Utility Users Council and Pickwick International Inc., Appellants (C9-82-1443); City of St. Paul, et al., petitioners, Respondents v. Minnesota Public Utilities Commission; Minnesota Department of Public Services, Appellant (CX-82-1466, C1-82-1467); Office of Consumer Services; Minnesota Senior Federation; United Handicapped Federation; Minnesota Department of Administration; Range Association of Municipalities and Schools; General Services Administration; Evan J. Henry, Appellant (C4-82-1480); Minnesota Public Interest Research Group; Minnesota Citizens Organization Acting Together; County of Ramsey; and Metro Deaf Senior Citizens, Inc. Ramsey County.

Section 14.63 of the Administrative Procedure Act and section 237.25 in the chapter regulating telephone and telegraph companies provide alternative procedures for obtaining district court judicial review in a telephone rate case.

SUPREME COURT

Under the circumstances here, notices of appeal filed by persons who were not parties to the agency proceeding but who were aggrieved by the agency decisions are deemed sufficient to qualify as petitions for review under section 14.63 of the Administrative Procedure Act.

A petition for judicial review under section 14.63 must be filed with the clerk to have jurisdictional validity.

Reversed in part and affirmed in part. Simonett, J.

Dissenting in part, concurring in part, Wahl, Yetka and Kelley, JJ.

C7-83-396 Kenneth V. Thake, Relator v. Backhauls, Incorporated and Aetna Life & Casualty. Workers' Compensation Court of Appeals.

The finding of the Workers' Compensation Court of Appeals that employee's intoxication was the proximate cause of the injuries for which he sought compensation is supported by the evidence and the inferences to be drawn from it.

Affirmed. Simonett, J. Dissenting, Yetka, Todd and Wahl, JJ.

C5-82-1438 Duane W. Hanson, Appellant v. Chicago, Rock Island and Pacific Railroad Company. Dakota County.

As modified, the trial court's remittitur of plaintiff's FELA damage award did not exceed the bounds of its proper discretion, but the remittitur is ordered to be conditioned on its acceptance by plaintiff, otherwise defendant's motion for a new trial on damages is granted.

In a FELA action, where the jury is instructed that the damage award is not taxable income, it is improper to instruct the jury further that the damage award is fully deductible for tax purposes by the defendant railroad.

The trial court's remittitur is affirmed as modified but on conditions.

Affirmed. Simonett, J. Dissenting, Todd and Yetka, JJ.

C3-82-1499 State of Minnesota v. Raymond H. Dreyer, Appellant. Blue Earth County.

Police did not violate defendant's fourth amendment rights in conducting a warrantless search of defendant's garbage or exceed the scope of a subsequently-issued search warrant in searching defendant's garage.

Affirmed. Kelley, J.

C0-82-1170 Francis Mahowald and Mary Ann Mahowald, Appellants; Stephen Bock, Appellant; Michael L. Kannegieter and Alice B. Kannegieter, individually and as husband and wife and natural guardians of Todd Kannegieter and Pamela Kannegieter, Appellants v. Minnesota Gas Company, a.k.a. Minnegasco, Century 21 Town and Country Real Estate, Inc., et al., Defendants and Barbarossa and Sons. Scott County.

A gas distributor is not an insurer of damages to person and property of others from an explosion resulting from leaks in gas mains located in public streets.

When natural gas escapes from lines and mains of a gas company located in the public streets, the gas company is liable only if negligent. In this case the plaintiffs were entitled to an instruction based upon the doctrine of *res ipsa loquitur*.

Reversed and remanded for new trial. Kelley, J. Dissenting, Todd, Scott and Wahl, JJ. Took no part, Coyne, J.

C6-83-146 John H. McGuire, Appellant v. C & L Restaurant, Inc., etc., and LeAn's Inc., et al. Dakota County.

The "damage cap" contained in Minn. Stat. § 340.95 (1980) unconstitutionally deprives those injured as the direct result of the illegal sale of intoxicating liquors equal protection of the law in violation of U.S. Const. amend. XIV, § 1 and Minn. Const. art. I, § 2.

Alleged trial court errors, mostly discretionary rulings, did not deprive an intoxicating liquor vendor of a fair trial.

Reversed and remanded. Kelley, J.

ERRATA

Rules published on March 12, 1984, entitled Proposed Rules Governing Income Limits for New and Existing Construction Loans and the Homeownership Assistance Fund should be properly entitled Proposed Rules Governing Income Limits for Limited-Unit Developments and the Homeownership Assistance Fund.

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